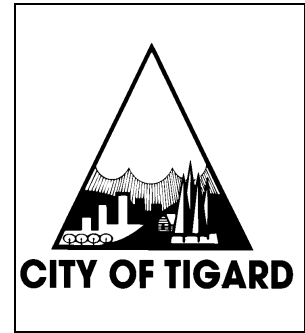

TIGARD CITY COUNCIL
MEETING

December 11, 2001 6:30 p.m.

TIGARD CITY HALL
13125 SW HALL BLVD
TIGARD, OR 97223



PUBLIC NOTICE:

Anyone wishing to speak on an agenda item should sign on the appropriate sign-up sheet(s). If no sheet is available, ask to be recognized by the Mayor at the beginning of that agenda item. Visitor's Agenda items are asked to be two minutes or less. Longer matters can be set for a future Agenda by contacting either the Mayor or the City Manager.

Times noted are estimated; it is recommended that persons interested in testifying be present by 7:15 p.m. to sign in on the testimony sign-in sheet. Business agenda items can be heard in any order after 7:30 p.m.

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-639-4171, Ext. 309 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-639-4171, x309 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

A G E N D A
TIGARD CITY COUNCIL MEETING
DECEMBER 11, 2001

6:30 PM

- STUDY SESSION
 - > CITY MANAGER REVIEW FORMAT
 - > UPDATE ON THE STREET MAINTENANCE FEE STUDY
 - > UPDATE ON POTENTIAL NEW LIBRARY BOND MEASURE
- EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(3), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

7:30 PM

1. BUSINESS MEETING
 - 1.1 Call to Order - City Council & Local Contract Review Board
 - 1.2 Roll Call
 - 1.3 Pledge of Allegiance
 - 1.4 Council Communications & Liaison Reports
 - 1.5 Call to Council and Staff for Non-Agenda Items
2. VISITOR'S AGENDA (Two Minutes or Less, Please)
 - Tigard High School Student Envoy Nathan Leamy
3. CONSENT AGENDA: These items are considered to be routine and may be enacted in one motion without separate discussion. Anyone may request that an item be removed by motion for discussion and separate action. Motion to:

- 3.1 Approve Council Minutes for September 25, October 9 and 16, 2001
- 3.2 Receive and File:
 - a. Council Calendar
 - b. Tentative Agenda
- 3.3 Approve a Resolution Declaring Tigard's Intent to Join the Oregon Public Employees' Retirement System State & Local Government Rate Pool – Resolution No. 01- _____
- 3.4 Approve a Resolution Authorizing the Mayor to Execute and Endorse an Amendment to the Agreement with the League of Oregon Cities Governing the League Status as a Unit of Local Government – Resolution No. 01- _____
- 3.5 Approve an Intergovernmental Agreement with the City of Beaverton for the Construction of a Water System Intertie, and Authorize the City Manager to Sign the Agreement
- *Consent Agenda - Items Removed for Separate Discussion: Any items requested to be removed from the Consent Agenda for separate discussion will be considered immediately after the Council has voted on those items which do not need discussion.*
4. CONSIDER AN ORDINANCE AMENDING CHAPTER 14.04 OF THE TIGARD MUNICIPAL CODE PERTAINING TO THE BUILDING CODE
 - a. Staff Report: Community Development Staff
 - b. Council Discussion
 - c. Consideration of Ordinance No. 01- _____
5. CONSIDER AN ORDINANCE AMENDING CHAPTER 13.09 OF THE TIGARD MUNICIPAL CODE PERTAINING TO REIMBURSEMENT DISTRICTS
 - a. Staff Report: Engineering Staff
 - b. Council Discussion
 - c. Consideration of Ordinance No. 01- _____
6. COUNCIL LIAISON REPORTS
 - a. National League of Cities Conference
7. NON AGENDA ITEMS

8. EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(3), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

9. ADJOURNMENT

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MEMORANDUM CITY OF TIGARD

13125 SW Hall Blvd.
Tigard, OR 97223
Phone 503-639-4171
Fax: 503-624-0752

TO: Mayor and City Councilors
Bill Monahan, City Manager

FROM: Gus Duenas
City Engineer

DATE: November 30, 2001

SUBJECT: Street Maintenance Fee Study Update

Background

City Council, through Resolution No. 01-06, formed a Transportation Financing Strategies Task Force to evaluate and recommend to Council feasible alternative funding sources for street maintenance and street expansion needs. The Task Force has evaluated, and will continue to examine, a wide variety of funding sources for both corrective and preventative maintenance of City streets, and expansion of major collectors to accommodate current and future traffic. One funding source that appears feasible and could potentially be a funding source for future street maintenance is a transportation user fee (also called a Street Utility Fee or Street Maintenance Fee).

At the City Council meeting on August 28, 2001, the Task Force made its initial report to City Council. The Task Force recommended initiation of a Street Maintenance Fee study to be brought back to Council for discussion and consideration.

The Need for Timely Maintenance

Much of the street infrastructure in the City is old and was not designed for heavy trucks and buses, which accelerate deterioration and greatly increase maintenance requirements. Pavement condition is typically quantified by the Pavement Condition Index (PCI) which rates the pavement according to the extent and severity of distress types present (cracking, rutting, shoving, etc.). Our Pavement Management System reports a preventative and corrective pavement maintenance backlog of approximately \$2 million dollars. About half of this amount is for slurry seals while the remainder is for pavement overlays. Some of the pavement overlays required are on major streets (such as Gaarde Street), which are already scheduled for reconstruction and widening as part of a major street

expansion project. However, the streets that require overlays and slurry seals, but are not programmed as part of a major expansion project, will still need this treatment soon.

Studies have shown that pavement condition worsens at an increasing rate as the pavement gets older. The reason for this is that deterioration begins mostly at the surface, then progresses down into the underlying layers as surface cracks develop. A typical pavement without rehabilitation will experience a 40% drop in PCI during the first 75% of its life and an additional 40% drop during the following 12% of its life. Restoration of pavement near the end of its service life will typically cost 4 to 5 times more than the rejuvenation performed in a timely manner.

The State Gas Tax Dilemma

As operating costs rise each year, the amount available from the State Gas Tax (which has not been increased in over a decade) for corrective and preventative maintenance has drastically decreased. In FY 2001-02, the amount available for the Street System Program from the gas tax is \$207,000. This is a dramatic drop from the \$500,000 to \$600,000 available just a few years ago. Within a year or two, the State Gas Tax would cease to be a viable source of funding for pavement overlays and slurry seals.

The Street Maintenance Fee

The Street Maintenance Fee is an alternative source of funds that can be implemented to help protect the City's investment in the street infrastructure. This is a monthly fee based on use of the transportation system, and is typically based on trip generation rates. The fee is charged to each household and business in the City. Other cities in Oregon have successfully implemented this fee and are using the proceeds in their annual street maintenance programs.

Status Update: Street Maintenance Fee Study

The Street Maintenance Fee study directed by Council is currently ongoing and a draft report should be completed by February 2002. This report will be submitted to the Task Force for review, discussion and comment. The report to Council would be scheduled after the Task Force is satisfied that the report is complete and includes the Task Force comments and recommendations. The elements of the report would include: justification for implementation of the fee, legal authority for implementation, the basis for the charges to be established, the proposed charge to each household and business, the annual amount that would become available from the fee, the work that would be performed from the revenues collected, timing for implementation, and the recommended public process to obtain input from the public prior to adoption of the fee.

The Task Force has asked that the study include rights-of-way and sidewalk maintenance itemized as separate elements with charges for those. In addition, streetlight maintenance and power consumption will be included in the study. The study will provide these as separate items with corresponding charges for Council discussion and direction. The elements of the study that are in progress are:

- Compilation of the inventory of businesses, multifamily residential structures, and single family residences
- Establishment of the general categories under which the various users would be grouped

- Documentation of the City's maintenance needs
- Determination of the amount sufficient to eliminate the maintenance backlog within a few years and continue an adequate level of maintenance henceforth
- Determination of the amounts needed for rights-of-way maintenance, sidewalk maintenance of collector streets Citywide, and streetlight power consumption and maintenance
- Calculation of the monthly charges for the categories of users

The most time consuming part of the work is the inventory of businesses, multifamily structures, and single family residences within the City.

The public outreach to obtain input from businesses and the general public would probably be best formulated in detail after the Task Force has made its recommendations and Council has had the opportunity to discuss the study and provide direction for further action.

The Task Force will continue meeting to evaluate other sources of funding. A high priority is determining sources that could be used to provide additional capacity within the existing collector network.

c: Craig Prosser, Finance Director
Tom Imdieke, Financial Operations Manager
Brian Rager, Development Review Engineer
Vannie Nguyen, CIP Division Manager

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Agenda Item No.: Study Session
Meeting of: December 11, 2001

Packet Materials for

UPDATE ON POTENTIAL NEW LIBRARY BOND MEASURE

will be available on Friday, December 7, 2001

Contact the City Recorder's Office at 503-639-4171
for more information

MINUTES
TIGARD CITY COUNCIL MEETING
SEPTEMBER 25, 2001

Council Present: Mayor Griffith, Councilors Dirksen, Moore, Patton, and Scheckla

**Commemorating
the City of Tigard's 40th Year!**

1. CALL TO ORDER: Mayor Griffith called the meeting to order at 6:34 p.m..
Mayor Griffith welcomed those attending this special Council meeting commemorating the City of Tigard's 40th Birthday.

❖ Pledge of Allegiance ceremony was led by Boy Scout Troop 419

2. WELCOME & READING OF PROCLAMATION – MAYOR GRIFFITH

Mayor Griffith read two proclamations. The first proclamation proclaimed September 11, 2001, as the City of Tigard's 40th Anniversary, and the second proclaimed October 21-27, 2001, as World Population Awareness Week.

Motion by Councilor Scheckla, seconded by Councilor Dirksen, to accept the proclamations as noted by the Mayor. The motion was approved by a unanimous vote of the City Council present:

| | | |
|--------------------|---|-----|
| Mayor Griffith | - | Yes |
| Councilor Dirksen | - | Yes |
| Councilor Moore | - | Yes |
| Councilor Patton | - | Yes |
| Councilor Scheckla | - | Yes |

3. SPECIAL GUESTS

The following special guests spoke to the City Council and audience regarding their memories and congratulations to the City of Tigard upon reaching its 40th year.

- ❖ Washington County Chair Tom Brian (Tigard Mayor – Jan. 1987 – December. 1988)
Mr. Brian noted that he served in City government for 10 years. He advised that he has been a long-time resident of the City of Tigard, raising his three children here. He said much of Tigard's success is due to the efforts of the volunteers who serve the City of Tigard. He reviewed the building blocks of the community, which included the establishment of the Tigard Civic Center building. He also noted that Tigard was one of the first City's to have a City road bond measure pass. Mr. Brian referred to the enhancement of Tigard

through improvements to Cook Park and the annexation of the Washington Square/Lincoln Center area.

- ❖ US Senator Ron Wyden
Councilor Patton read a letter from Senator Wyden, which is on file in the City Recorder's office.
- ❖ US Senator Gordon Smith
Councilor Moore read a letter from Senator Smith, which is on file in the City Recorder's office.
- ❖ US Representative David Wu
Mayor Griffith read a letter from Representative Wu, which is on file in the City Recorder's office.
- ❖ Governor John Kitzhaber
Councilor Scheckla read a letter from Governor Kitzhaber, which is on file in the City Recorder's office.
- ❖ Oregon Senator Ryan Deckert
Mayor Griffith read a letter from Senator Deckert, which is on file in the City Recorder's office.
- ❖ Beaverton Mayor Rob Drake
Councilor Dirksen read a letter from Mayor Drake, which is on file in the City Recorder's office.
- ❖ Former Mayor John Cook (Tigard Mayor – Jan. 1984 – Dec. 1986)
Mr. Cook reviewed the City's incorporation that occurred in 1961. He also recalled how the property for Cook Park was purchased. He noted that he had served the City of Tigard for a total of 25 years. His service included a term as Mayor as well as participation on many boards and committees throughout the years. He said that he hoped the next 40 years would show continued growth and improvement in the City of Tigard.
- ❖ Former Mayor Gerald Edwards (Tigard Mayor – Jan. 1989 – March 1994)
Mr. Edwards planned to attend; however, due to illness he sent regrets that he could not attend.
- ❖ *Pioneer woman reading letter*
A letter was read depicting life during settlement days in the Tigard area.

- ❖ Tigard-Area Resident Bev Froude
Mrs. Froude noted that she moved to Bull Mountain in 1964. She advised that her husband had lived on this property since 1941 before there was public water service. She said she first became involved with local government when they were concerned that Murray Boulevard was going to be extended over Bull Mountain. She challenged citizens to become informed about local government and said, "One person can make a difference."
- ❖ Tigard Resident Betty Moore
Mrs. Moore recalled her childhood around 1923 and growing up on Main Street. She recounted anecdotes of this time period when her parents owned a grocery store on Main Street. Tigard was "a perfect little town."
- ❖ Tigard Resident Pat Anderson Keerins
Mrs. Keerins was a long-time resident and was born at what is now known as the Windmill Park area. She said that 121st Avenue used to be called Christensen Road. Ms. Keerins submitted a letter containing a summary of her remarks. This letter is on file in the City Recorder's office.
- ❖ Tigard Resident Martha Bishop
Mrs. Bishop, a long-time resident, volunteer, and wife of former Mayor Wilbur Bishop, recalled her early days in the City of Tigard. She noted that her husband, Wilbur Bishop, grew up in Tigard and they returned to the area after World War II and raised their family in Tigard.
- ❖ Tigard Resident Bibianne Scheckla
Ms. Scheckla read from the book, *Tigardville*, a selection on the Scheckla family who settled the Tigard area. A copy of this book is available at the City of Tigard Library.
- ❖ State Representative Max Williams
Representative Williams noted that as the City approached middle age, there were a number of problems to resolve. He noted the people of Tigard and their sense of service to their community and said it was a pleasure and honor to represent the citizens of Tigard.
- ❖ Tigard-Tualatin School District Superintendent Steve Lowder
Mr. Lowder gave a history of the Tigard School District since 1961. In '61, the District was known as the Tigard Union District. The District is now comprised of 11,600 students. Presently, the City and School District are exploring shared uses of resources to provide opportunities for youth activities.

- ❖ Tigard Chamber of Commerce Representative – President Sheri Matheis
Ms. Matheis extended good wishes to the City of Tigard. She noted the earlier organization responsible for forming the Chamber of Commerce was also responsible for implementing the petition to incorporate the City of Tigard.
- ❖ *1941 soldier departing from Tigard. (A copy of the remarks is on file in the City Recorder's office.)*
- ❖ *Person talking about life in Tigard at that time and City's incorporation. (A copy of the remarks is on file in the City Recorder's office.)*

Council meeting recessed: 8:15 p.m.

Council meeting reconvened: 8:25 p.m.

4. BUSINESS MEETING

4.1 Council Communications & Liaison Reports: None.

4.2 Call to Council and Staff for Non-Agenda Items: None.

5. VISITOR'S AGENDA: No visitors signed in to speak to the City Council.

6. PROCLAMATION (noted earlier in the meeting, see Page 1).

a. World Population Awareness Week, October 21-27

7. CONSENT AGENDA: Motion by Councilor Moore, seconded by Council Patton, to approve the Consent Agenda as follows:

7.1 Approve City Council Minutes: July 10, 17, 24, and August 14, 2001

7.2 Approve the Dedication of Reserve Strips as Public Rights of Way

7.3 Approve Policies for Solid Waste Rate Actions – Resolution No. 01-53-A*

7.4 Local Contract Review Board:

a. Award Contract for the Construction of Embedded Crosswalk Lighting System to R. J. Rouse Electric, Inc.

b. Award a Personal Services Contract for Electrical Inspections and Plan Review to Clair Company.

c. Amend Purchase Order for Cook Park Master Plan Expansion – Phase I Construction for the Irrigation of Sports Fields

*City Recorder's note: Resolution and ordinance numbers assigned during this meeting were inadvertently given numbers assigned to Council action items at a previous meeting. Therefore, the letter "A" was attached to the numbers for resolution and ordinances adopted at this meeting.

The motion was approved by a unanimous vote of the City Council present:

| | | |
|--------------------|---|-----|
| Mayor Griffith | - | Yes |
| Councilor Dirksen | - | Yes |
| Councilor Moore | - | Yes |
| Councilor Patton | - | Yes |
| Councilor Scheckla | - | Yes |

8. PUBLIC HEARING – FINALIZE FORMATION OF SANITARY SEWER REIMBURSEMENT DISTRICT NO. 20 – SW ROSE VISTA DRIVE

- a. Mayor Griffith opened the public hearing.
- b. Project Engineer Greg Berry presented the staff report, which is on file in the City Recorder's office.
- c. Public Testimony: None
- d. Mayor Griffith closed the public hearing.
- e. Motion by Councilor Moore, seconded by Councilor Scheckla, to approve the finalization of Sanitary Sewer Reimbursement District No. 20.

The motion was approved by a unanimous vote of the City Council present:

| | | |
|--------------------|---|-----|
| Mayor Griffith | - | Yes |
| Councilor Dirksen | - | Yes |
| Councilor Moore | - | Yes |
| Councilor Patton | - | Yes |
| Councilor Scheckla | - | Yes |

9. UPDATE FROM THE NEW LIBRARY CONSTRUCTION COMMITTEE ABOUT THE RECOMMENDED SITE FOR THE PROPOSED NEW LIBRARY

Library Director Margaret Barnes introduced Gary Larson and Rich Brooks of BML Architects. Mr. Larsen reviewed the placement of the proposed new library and potential location of Wall Street. He advised that there is enough area for the proposed building even with the consideration that must be given to wetlands and the floodplain. He also noted that there will be future room for growth.

City Manager Monahan advised that the City was in negotiations to acquire an option on the property.

10. CONSIDER REVISING TIGARD MUNICIPAL CODE CHAPTER 13.09, REIMBURSEMENT DISTRICTS

City Engineer Duenas reviewed this agenda item and presented the staff report to the City Council. A copy of the staff report is on file in the City Recorder's office.

Mr. Duenas reviewed the proposed revisions to Tigard Municipal Code (TMC) Chapter 13.09, which would authorize purchasing an easement from an owner within a proposed district and allow the City to recover its cost of administering reimbursement districts as described in a memorandum submitted to the Council and contained in material on file in the City Recorder's office.

Mr. Duenas advised that staff recommended approval of the ordinance.

Motion by Councilor Moore, seconded by Councilor Patton, to adopt Ordinance No. 01-11-A.

ORDINANCE NO. 01-11-A – AN ORDINANCE AMENDING CHAPTER 13.09, REIMBURSEMENT DISTRICTS, OF THE TIGARD MUNICIPAL CODE.

The motion was approved by a unanimous vote of the City Council present:

| | | |
|--------------------|---|-----|
| Mayor Griffith | - | Yes |
| Councilor Dirksen | - | Yes |
| Councilor Moore | - | Yes |
| Councilor Patton | - | Yes |
| Councilor Scheckla | - | Yes |

11. PUBLIC HEARING – CONSIDER REVISING TIGARD MUNICIPAL CODE CHAPTER 7.40, NOISE ORDINANCE

- a. Mayor Griffith opened the public hearing.
- b. Planning Manager Dick Bewersdorff presented the staff report. A copy of the staff report is on file in the City Recorder's office. Mr. Bewersdorff reviewed Councilor Patton's concerns with regard to the intent of Section 7.40.160 – Noise Limits.
He described how renumbering the section would clarify the intent. A written outline of how the section is to be renumbered is on file with the staff report on file in the City Recorder's office.
- c. Public Testimony
 - Michael Trigoboff, Tigard, OR 97223, testified with regard to issues that have occurred in his neighborhood relating to a neighbor who has been uncooperative in resolving a noise issue. He was

concerned about the proposed ordinance's requirement to have three witnesses corroborate a noise violation.

Council discussed Mr. Trigoboff's concerns and it was determined that the ordinance could be amended to note that two witnesses would be sufficient to cite a violation of the ordinance. One witness could be a citizen and one witness could be an officer or City employees. (Section 7.40.200)

- Michael Allen, 7023 SW Barbara Lane, Tigard, OR 97223, testified that he lived in the same neighborhood as Mr. Trigoboff and cited the same problem with the neighbor as described in Mr. Trigoboff's testimony. He reviewed some instances of noise that have occurred in the past with the neighbor in question. He said they live in a small cul-de-sac and it would be difficult to obtain three witnesses to cite a violation of the noise ordinance.
- d. Staff recommended that the ordinance be approved as submitted with amendments to Section 7.40.160 as noted from the concerns expressed by Councilor Patton, and to change the number of witnesses from three to two. It was determined that the City Attorney and Community Development Staff would work on the revisions to the ordinance while the Council reviewed the next agenda item.
- e. Mayor Griffith closed the public hearing.
- g. Council Consideration:

Motion by Councilor Scheckla, seconded by Councilor Dirksen, to adopt Ordinance No. 01-13-A, with revisions as noted.

ORDINANCE NO. 01-13-A – AN ORDINANCE REPEALING SECTIONS 7.40.130 THROUGH 7.40.200 OF THE TIGARD MUNICIPAL CODE AND ADDING NEW SECTIONS 7.40.130, 7.40.140, 7.40.150, 7.40.160, 7.40.170, 7.40.180, 7.40.190 AND 7.40.200 TO THE TIGARD MUNICIPAL CODE

It was clarified that a police officer or city employee could be in place of one of the witnesses from a household.

The motion was approved by a unanimous vote of the City Council present:

| | | |
|--------------------|---|-----|
| Mayor Griffith | - | Yes |
| Councilor Dirksen | - | Yes |
| Councilor Moore | - | Yes |
| Councilor Patton | - | Yes |
| Councilor Scheckla | - | Yes |

12. CONSIDER REVISING TIGARD MUNICIPAL CODE CHAPTER 2.09, BUILDING APPEALS BOARD

Building Official Gary Lampella presented the staff report. Mr. Lampella proposed that Chapter 2.09 of the Tigard Municipal Code be amended to reduce the number of Building Appeals Board members from 14 to 7, making the board more functional and easier to convene.

Motion by Councilor Moore, seconded by Councilor Scheckla, to adopt Ordinance No. 01-12.

ORDINANCE NO. 01-12-A – AN ORDINANCE AMENDING CHAPTER 2.09 OF THE TIGARD MUNICIPAL CODE CHANGING THE NUMBER OF MEMBERS FROM FOURTEEN TO SEVEN.

The motion was approved by a unanimous vote of the City Council present:

| | | |
|--------------------|---|-----|
| Mayor Griffith | - | Yes |
| Councilor Dirksen | - | Yes |
| Councilor Moore | - | Yes |
| Councilor Patton | - | Yes |
| Councilor Scheckla | - | Yes |

A brief discussion followed after the adoption of the ordinance. Council directed that the Building Official could begin to recruit members for the Building Appeals Board. Mr. Lampella will inquire among those who have served before on the Board to determine if they wish to continue to serve.

> ADMINISTRATIVE ITEMS

The City Manager reviewed the following:

- League of Oregon Cities conference, November 9-11 in Eugene.
- September 30, 2001, memorandum from Dick Bewersdorff, Planning Manager, regarding "Study of the Planned Development Ordinance" was distributed to the City Council
- Information was distributed to the City Council concerning the Dick Shouten memo regarding Metro Greenspaces.
- Information was reviewed regarding a house moved September 23 out of the City of Tigard. The house had been located temporarily on SW North Dakota Street.

13. COUNCIL LIAISON REPORTS: None.
14. NON AGENDA ITEMS: None.
15. EXECUTIVE SESSION: No Executive Session was called to order.
16. ADJOURNMENT: 9:33 p.m.

Attest:

Catherine Wheatley, City Recorder

Mayor, City of Tigard

Date: _____

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MINUTES
TIGARD CITY COUNCIL MEETING
OCTOBER 9, 2001

- STUDY SESSION

The study session was called to order by Mayor Griffith at 6:35 p.m.

Councilors Present: Mayor Griffith, Councilors Dirksen, Moore, Patton, and Scheckla (arrived at 6:37 p.m.)

- > ADMINISTRATIVE ITEMS

City Manager Monahan reviewed several administrative items with the City Council:

- Council agreed that the workshop meeting of December 18, 2001, would become a business meeting. The Council meeting of December 25, 2001, is canceled. The first meeting in 2002 is on January 8 and business items for the Council will be scheduled.

(Note: "Administrative Items" discussion continued after the Metro Greenspaces discussion.)

- > LIBRARY SITE DISCUSSION

Information on the library site was distributed to the City Council. A copy of this information is on file in the City Recorder's office. Mr. Fred Fields owns the property identified as the favored site for the new library. Mr. Fields is waiting for appraisal information on the property before discussing the site with the City. Attorney Dom Colletta of the City Attorney's office also is obtaining information on the property. Wetlands and land use issues need to be resolved to determine what process the City should follow. An Executive Session discussion item on this matter will likely be scheduled at the October 16, 2001, City Council meeting. The City Manager recommended the model being constructed for the new library building be completed with the Fields' property as the anticipated location. Mr. Monahan noted that the building location might change.

The School District has been discussing long-term facility needs and, rather than expanding Tigard High School, the idea of a magnet school is being considered. It was suggested that the potential new library might be a good

site for the magnet school. Mr. Monahan updated the City Council with some of the needs of such a facility, which would include an area for students to be involved in media production and an environmental course of study. Discussions are still at the "germination" stage. This site is only one of several sites being discussed as potential locations for a magnet school. The estimated amount of building space needed for a magnet school is 13,000 square feet.

At this point, a magnet-school concept has not been that well received. Councilor Moore advised that he did not think it would be appropriate for the City to consider adding any suggestion of such a school to the library bond measure until the School District presents the City with something more formal. Councilor Patton noted how the concept has grown from what was initially was envisioned and, in addition, many details still need to be worked out. It was noted that this was not a proposal that was brought forth by the City – it is the School District's concept. Another consideration is that there will be costs to maintain the facilities needed for this school. Councilor Patton noted she was hesitant to "get on the bandwagon" with the still-vague magnet school concept.

More discussion followed with regard to the School District's review of a potential magnet school. The School District has been reviewing options for some time. Councilor Moore noted that the City might decide to consider the magnet school as a joint venture in the future.

There was discussion on the need to address the wetland issues and to determine the capability for future library expansion. Mr. Monahan noted that he would report back to the Council with more information with regard to wetland impacts at the October 16 meeting.

> METRO GREENSPACES

Mr. Monahan reviewed information distributed to the City Council with regard to Metro Greenspaces. This information is on file in the City Recorder's office. Metro representative Jim Desmond has advised the City that there may be no consideration of properties (by Metro) for greenspace funding that were not on the original list of potential greenspace properties. Properties proposed by consideration through activities by citizens and other groups with regard to Senn, Gage, Conklin, and Stanley properties were discussed. Senn is an eligible Metro greenspace property. The Conklin and Stanley properties may have a chance to be considered for funding if proposed separately. The Gage property is not considered to be of a regional benefit and does not appear to qualify for consideration.

Mayor Griffith noted he received a call from Steve Kafoury representing Friends of Open Space of Tigard, which was supporting the Gage, Conklin, and Stanley properties. At this point, Mr. Kafoury was looking for support from the City of Tigard for his group to urge Metro to consider these three properties. City of Tigard has not been asked for any monetary contribution. The Conklin and Stanley properties are not in the City of Tigard and the Mayor indicated that the City would possibly support (as the City usually does) parks in general. Mr. Monahan noted that the Stanley and Conklin properties are located in the City's "area of interest" and the City could be supportive of the efforts for park land acquisition, but at this time, the City would have no ability to offer financial support.

Mr. Monahan reviewed the Senn property, which is near the Metzger area. Information was distributed to the City Council for its review. There is a community effort underway to raise funding and the Council may be approached by individuals for contributions. In addition, the City may be asked if it would be willing to maintain the property if the property was purchased for greenspaces. Public Works Director Wegner noted that he has looked at the property, which is wooded and has a stream. Mr. Wegner said that funds might be available from Clean Water Services to help with the purchase. At first the site will require minimal maintenance. If a parking lot were to be built, then a site plan would need to be developed. Current plans are that the property will only offer trails. There would be some expense for maintenance of the stream and the stream corridor.

There was discussion on potential City of Tigard interest in the Senn property for maintenance or an interest in an ownership stake in the property. In addition, information is needed on how much Clean Water Services would be willing to contribute for the purchase of the property.

Consensus of the Council was that staff's approach has been appropriate with regard to their response to inquiries received about the possibility of proceeding with the above-mentioned greenspace areas.

> ADMINISTRATIVE ITEMS (continued discussion)

- All resolutions now need to have the following wording added (if no specific effective date is cited): "This resolution is effective immediately upon passage." The Legislature recently passed a law requiring resolutions to state an effective date. All resolutions for this meeting have been revised to indicate an effective date.

- Mr. Monahan briefly reviewed that a policy on per diem allowances was proposed by resolution and submitted for Council approval on this meeting's Consent Agenda. He asked if discussion was needed separately or if the item could remain on the Consent Agenda. There was no request for a separate discussion.
- The Laptop Purchase Agreement submitted to the City Council for review at this meeting has been revised to indicate the end date of October 11, 2006. Material was distributed to the City Council for review.
- Mr. Monahan noted that there may be a potential Visitor's Agenda topic brought forward concerning the St. Anthony's Church parking waiver request. The proposed parking standards do not meet what is required. Father Sieg has suggested that the City consider waiving the fees to proceed with addressing the parking issues. Staff will review and determine whether the Code should be amended and report back to the City Council. This issue arose during a preapplication conference with representatives from the church.
- Rail Volution has been rescheduled for November 29 – December 2. Information was distributed to the City Council. Mr. Monahan noted that the Commuter Rail, at this point, is on the "back burner." He suggested that the City Council wait before it considers sending representatives to conferences such as the Rail Volution.
- Councilor Moore advised he would not be traveling to the National League of Cities Conference.
- Mr. Monahan referred to a brochure that was distributed to the City Council for the recruitment of a police captain.
- Mr. Monahan noted that he would be attending the League of Oregon Cities Conference. No City Council members planned to attend. Information on the "voting delegate" was distributed to the City Council.
- Mr. Monahan reported that Paul Hunt has submitted a letter regarding his high regard for what the City has done to improve Cook Park. Mr. Hunt also indicated his support for the proposed new library. A copy of Mr. Hunt's letter is on file in the City Recorder's office.
- Council discussed that Tualatin Mayor Lou Ogden is no longer the primary representative for the Metro Policy Advisory Committee (MPAC).

Richard Kidd from the City of Hillsboro will now be the primary representative. There will be an opening for the alternate position.

- EXECUTIVE SESSION: No Executive Session was held.

Study meeting concluded at 7:34 p.m.

1. BUSINESS MEETING

1.1 Mayor Griffith called the business meeting to order at 7:40 p.m.

1.2 Roll Call: Mayor Griffith and Councilors Dirksen, Moore, Patton, and Scheckla

1.3 Pledge of Allegiance

1.4 Council Communications & Liaison Reports: None.

1.5 Call to Council and Staff for Non-Agenda Items: None.

2. VISITOR'S AGENDA

- Tigard High School Student Envoy Nathan Leamy
Information was distributed to the City Council and Mr. Leamy reviewed highlights of recent activities of Tigard High School students.
- Jack Polans, 16000 SW Queen Victoria, King City, Oregon, raised issues with regard to "mixing" of drinking water from several sources. He was concerned about what percentage is mixed. Councilors Patton and Scheckla noted that supplies that are received from the City of Portland are "mixed" from its resources. Public Works Director Wegner confirmed that the City of Tigard blends water and that the system cannot isolate one source from another. How much the water is blended depends on where the City buys the water and the time of year. In response to Mr. Polans' question about whether wells are located near earthquake faults, Mr. Wegner noted that the Portland Water Bureau is responsible for well location.
- Patrick Burns requested the City Council consider an amendment to the Tigard Municipal Code, Chapter 10.32.079, which would require that a parade on public property be preceded by a color guard. Mr. Burns has talked to Assistant to the City Manager Liz Newton on this subject. The City, when it requires to parade permits, is concerned with public safety. With regard to flag displays, the City relies on state or federal laws. Mr. Monahan cautioned that if the City does establish a color guard requirement as suggested by Mr. Burns, thought must be given about how this requirement would be enforced. After discussion, it was determined that staff would review the issue and report back to the City Council.

(Note: The discussion with State Representative Max Williams was held next; see Page 7.)

3. CONSENT AGENDA:

It was noted that all resolutions had been modified to indicate an effective date; agenda item 3.7 relating to per diem allowances did not require a separate discussion; and the laptop purchase agreement (item 3.7) has been revised to indicate an end date of October 11, 2006.

Motion by Councilor Moore, seconded by Councilor Patton, to approve the Consent agenda, as modified:

- 3.1 Receive & File:
 - a. Council Calendar
 - b. Tentative Agenda
- 3.2 Adjust the Fee for the Cost of Accounting and Processing of Checks Returned by Banking Institutions for Non-Payment – Resolution No. 01- 55
- 3.3 Approve Budget Amendment #5 to the Fiscal Year 2001-02 Budget to Transfer Funds to Pay an Assessment by the League of Oregon Cities for Legal Costs Associated with Qwest Franchise Fees - Resolution No. 01- 56
- 3.4 Approve Budget Amendment #6 to the Fiscal Year 2001-02 Budget to Transfer Funds from Contingency to Make a Contribution to Community Partners for Affordable Housing for the Village at Washington Square Project - Resolution No. 01- 57
- 3.5 Establish a Procedure to Grant City Sponsorship to Community Events and Replace Resolution No. 00-01 – Resolution No. 01- 58
- 3.6 Approving an Amendment to the Non-exclusive Cable Television Services Franchise Agreement Granted to TCI of Tualatin Valley, Inc., by Extending the Deadline for Construction of the Required System Upgrade - Resolution No. 01- 59
- 3.7 Approve a Policy on Per Diem Allowances for the City Council and Executive Staff when Attending National Conferences – Resolution No. 01-60
- 3.8 Local Contract Review Board
 - a. Award a Personal Services Contract to Precision Graphics for Cityscape Newsletter Printing Services
 - b. Award Contract to Provide Fuel at Captive Sites and Foreign Sites through the Use of Commercial Automated Fuel Systems to Bretthauer Oil Company
 - c. Award Contracts for Laptop Computers to ESP Technology, Sterling Computers, and Alsea Computers

The motion was approved by a unanimous vote of Council present:

| | | |
|--------------------|---|-----|
| Mayor Griffith | - | Yes |
| Councilor Dirksen | - | Yes |
| Councilor Moore | - | Yes |
| Councilor Patton | - | Yes |
| Councilor Scheckla | - | Yes |

4. TIGARD BEYOND TOMORROW VISION UPDATE

Assistant to the City Manager Newton introduced this agenda item.

Staff liaisons to each of the six target areas reviewed progress. A copy of the PowerPoint presentation summarizing highlights is on file in the City Recorder's office.

➤ DISCUSSION WITH STATE SENATOR RYAN DECKERT AND STATE REPRESENTATIVE MAX WILLIAMS

Senator Deckert was unable to attend the Council meeting.

Representative Max Williams's comments are highlighted as follows:

- The Legislative Session closed on July 7, 2001.
- School funding was increased.
- For the first time in a decade a transportation funding package was approved (\$400 million).
- Commuter rail funding was approved (lottery bond) for \$35 million.
- Funding was restored to higher education and community colleges.
- An improved, expanded childcare tax credit was approved.
- Food stamp program funding was approved.
- \$1.8 million was allocated to the domestic violence program fund.
- Oregon is entering into an economic recession. On September 1, the State was down \$300 million from previous ending fund balance estimates. There is the possibility of a special session in January and Representative Williams said he was uncertain about what will be cut. It is anticipated that it will be 2002 before the economy "turns around" and 2003 before the State coffers will realize any evidence of budget growth.
- Representative Williams noted a Constitutional challenge to use of lottery funds, and the outcome could affect the issuance of commuter rail bonds.
- Representative Williams commented on the Qwest lawsuit (local governments collecting franchise fees) against the City of Portland and advised that he had hoped for a legislative solution.
- Measure 7 remains unresolved and there is no indication when the court will issue an opinion.

5. PUBLIC HEARING – CONSIDER A RESOLUTION APPROVING A SUPPLEMENTAL BUDGET TO FISCAL YEAR 2001-2002 FOR THE PARKS SYSTEM DEVELOPMENT CHARGE FUND AND THE UNDERGROUND UTILITY FUND

- a. Mayor Griffith opened the public hearing.
- b. Finance Director Prosser presented the staff report, which is on file in the City Recorder's office.
- c. Public Testimony: None.
- d. Staff Recommendation: Approval of the proposed ordinance.
- e. Mayor Griffith closed the public hearing.
- f. Council Consideration:

RESOLUTION NO. 01-61 – A RESOLUTION APPROVING A SUPPLEMENTAL BUDGET FOR FY 2001-01 FOR THE PARKS SDC FUND AND THE UNDERGROUND UTILITY FUND.

Motion by Councilor Moore, seconded by Councilor Patton, to adopt Resolution No. 01-61.

The motion was approved by a unanimous vote of the City Council present:

| | | |
|--------------------|---|-----|
| Mayor Griffith | - | Yes |
| Councilor Dirksen | - | Yes |
| Councilor Moore | - | Yes |
| Councilor Patton | - | Yes |
| Councilor Scheckla | - | Yes |

6. CONSIDER AN ORDINANCE AMENDING CHAPTER 2.16 OF THE TIGARD MUNICIPAL CODE TO UPDATE STATUTORY REFERENCES AND CLARIFY THE POWERS OF THE MUNICIPAL JUDGE AND PRO TEMPORE MUNICIPAL JUDGE

Finance Director Prosser reviewed the staff report, which is on file in the City Recorder's office.

ORDINANCE NO. 01-14 – AN ORDINANCE AMENDING CHAPTER 2.16 TO UPDATE STATUTORY REFERENCES AND CLARIFY THE POWERS OF THE MUNICIPAL JUDGE AND PRO TEMPORE MUNICIPAL JUDGE

Motion by Councilor Scheckla, seconded by Councilor Dirksen, to adopt Ordinance No. 01-14.

The motion was approved by a unanimous vote of the City Council present:

| | | |
|--------------------|---|-----|
| Mayor Griffith | - | Yes |
| Councilor Dirksen | - | Yes |
| Councilor Moore | - | Yes |
| Councilor Patton | - | Yes |
| Councilor Scheckla | - | Yes |

7. CONSIDER:

7.1 AN ORDINANCE AMENDING SECTION 12.10.180 AND ADDING NEW SECTIONS 12.10.300, 12.10.310, 12.10.320, 12.10.330, AND 12.10.340 OF THE TIGARD MUNICIPAL CODE

Utility Manager Dennis Koellermeier presented the staff report, which is on file in the City Recorder's office. Mr. Koellermeier characterized the proposed amendments as "housekeeping" in nature.

ORDINANCE NO. 01-15 – AN ORDINANCE AMENDING SECTION 12.10.180 AND ADDING NEW SECTIONS 12.10.300, 12.10.310, 12.10.320, 12.10.330, AND 12.10.340 OF THE TIGARD MUNICIPAL CODE

Motion by Councilor Patton, seconded by Councilor Scheckla, to adopt Ordinance No. 01-15.

The motion was approved by a unanimous vote of the City Council present:

| | | |
|--------------------|---|-----|
| Mayor Griffith | - | Yes |
| Councilor Dirksen | - | Yes |
| Councilor Moore | - | Yes |
| Councilor Patton | - | Yes |
| Councilor Scheckla | - | Yes |

7.2 A RESOLUTION AMENDING THE RULES, RATES, AND REGULATIONS GOVERNING WATER SERVICE HANDBOOK

RESOLUTION NO. 01-62 – A RESOLUTION AMENDING SECTION 19 OF THE RULES, RATES AND REGULATIONS GOVERNING WATER SERVICE HANDBOOK

Motion by Councilor Moore, seconded by Councilor Dirksen, to adopt Resolution No. 01-62.

The motion was approved by a unanimous vote of the City Council present:

| | | |
|--------------------|---|-----|
| Mayor Griffith | - | Yes |
| Councilor Dirksen | - | Yes |
| Councilor Moore | - | Yes |
| Councilor Patton | - | Yes |
| Councilor Scheckla | - | Yes |

8. CONSIDER AN ORDINANCE AMENDING SECTION 2.28.020 OF THE TIGARD MUNICIPAL CODE TO REMOVE THE REQUIREMENT THAT RESERVE OFFICERS MUST BE UNDER THE AGE OF 60

Police Chief Ron Goodpaster presented the staff report, which is on file in the City Recorder's office.

ORDINANCE NO. 01-16 – AN ORDINANCE AMENDING SECTION 2.28 OF THE TIGARD MUNICIPAL CODE CHANGING SUBSECTION 2.28.020 TO REMOVE THE REQUIREMENT THAT RESERVE OFFICERS MUST BE UNDER THE AGE OF 60

Motion by Councilor Moore, seconded by Councilor Patton, to adopt Ordinance No. 01-16.

The motion was approved by a unanimous vote of the City Council present:

| | | |
|--------------------|---|-----|
| Mayor Griffith | - | Yes |
| Councilor Dirksen | - | Yes |
| Councilor Moore | - | Yes |
| Councilor Patton | - | Yes |
| Councilor Scheckla | - | Yes |

9. CONSIDER AN ORDINANCE AMENDING SECTION 10.50.080 OF THE TIGARD MUNICIPAL CODE CHANGING SUBSECTION 10.50.080 (6) PROHIBITING MOVEMENT OF OVERSIZE LOADS ON CITY STREETS BEFORE 9 AM AND AFTER 3 PM

Police Chief Ron Goodpaster presented the staff report, which is on file in the City Recorder's office. He explained that the Police Department works closely with people if there are problems. In response to questions regarding Code language for weekend activity, Chief Goodpaster clarified how some flexibility must be maintained and that the permit process protects the interests of the City.

ORDINANCE NO. 01-17 – AN ORDINANCE AMENDING SECTION 10.50.080 OF THE TIGARD MUNICIPAL CODE CHANGING SUBSECTION

10.50.080(6) PROHIBITING MOVEMENT OF OVERSIZE LOADS ON CITY STREETS BEFORE 9:00 A.M. AND AFTER 3:00 P.M.

Motion by Councilor Scheckla, seconded by Councilor Patton, to adopt Ordinance No. 01-17.

The motion was approved by a unanimous vote of the City Council present:

| | | |
|--------------------|---|-----|
| Mayor Griffith | - | Yes |
| Councilor Dirksen | - | Yes |
| Councilor Moore | - | Yes |
| Councilor Patton | - | Yes |
| Councilor Scheckla | - | Yes |

10. CONSIDER AN ORDINANCE AMENDING CHAPTER 14.20 OF THE TIGARD MUNICIPAL CODE REGARDING MOVING OF BUILDINGS

Building Official Gary Lampella presented the staff report, which is on file in the City Recorder's office.

ORDINANCE NO. 01-18 – AN ORDINANCE AMENDING CHAPTER 14.20 MOVING OF BUILDINGS.

Motion by Councilor Patton, seconded by Councilor Dirksen, to adopt Ordinance No. 01-18.

The motion was approved by a unanimous vote of the City Council present:

| | | |
|--------------------|---|-----|
| Mayor Griffith | - | Yes |
| Councilor Dirksen | - | Yes |
| Councilor Moore | - | Yes |
| Councilor Patton | - | Yes |
| Councilor Scheckla | - | Yes |

11. CONSIDER AN ORDINANCE AMENDING TITLES 1 AND 2 OF THE TIGARD MUNICIPAL CODE BY ADDING NEW SECTIONS AND AMENDING EXISTING SECTIONS PERTAINING TO GENERAL GOVERNMENT AND ADMINISTRATION AND PERSONNEL

City Recorder Cathy Wheatley presented the staff report, which is on file in the City Recorder's office.

ORDINANCE NO. 01-19 – AN ORDINANCE AMENDING TITLES 1 AND 2 OF THE TIGARD MUNICIPAL CODE BY ADDING NEW SECTIONS AND AMENDING EXISTING SECTIONS PERTAINING TO GENERAL GOVERNMENT AND ADMINISTRATION AND PERSONNEL.

Motion by Councilor Dirksen, seconded by Councilor Scheckla, to adopt Ordinance No. 01-19.

The motion was approved by a unanimous vote of the City Council present:

| | | |
|--------------------|---|-----|
| Mayor Griffith | - | Yes |
| Councilor Dirksen | - | Yes |
| Councilor Moore | - | Yes |
| Councilor Patton | - | Yes |
| Councilor Scheckla | - | Yes |

- 12. COUNCIL LIAISON REPORTS: None.
- 13. NON AGENDA ITEMS: None.
- 14. EXECUTIVE SESSION: No Executive Session was held.
- 15. ADJOURNMENT: 9:25 p.m.

Attest:

Catherine Wheatley, City Recorder

Mayor, City of Tigard

Date: _____

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MINUTES
TIGARD CITY COUNCIL MEETING
October 16, 2001

1. WORKSHOP MEETING

- 1.1 Mayor Griffith called the meeting to order at 6:39 p.m.
- 1.2 Roll Call: Mayor Griffith and Councilors Dirksen, Moore, Patton and Scheckla were present.
- 1.3 Pledge of Allegiance
- 1.4 Council Communications & Liaison Reports: None
- 1.5 Call to Council and Staff for Non Agenda Items:

City Manager Bill Monahan stated that at the end of the meeting there were several administrative items to discuss, and an executive session should be held.

2. UPDATE ON THE TIGARD SENIOR CENTER

Risk Manager Loreen Mills introduced Karen Gardner, executive director of the Tigard Senior Center. A PowerPoint presentation was made, and is on file in the City Recorder's office. The Senior Center is owned by the City and was built and remodeled with Community Development Block Grant money. Loaves and Fishes contracts to run the Center, and employs Ms. Gardner. The Loaves and Fishes program is run by one full-time employee, four part-time employees, and volunteers. The Senior Center serves as a community resource, and provides Meals on Wheels meals at the Center, classes (including English as a second language), healthcare, healthcare education, support groups, and leisure time activities. Last year, the program served 41,862 meals. Two-thirds of those meals went to Tigard residents.

The Tigard service area has the highest proportion of seniors of any area in Washington County. In Oregon, the senior population is projected to increase 124 percent over the next 20 years as baby boomers grow older. Partnerships for dealing with the projected increase were discussed.

Ms. Gardner thanked the Council for the City's wonderful support of the Center. Mayor Griffith expressed his appreciation for the Center's services and efforts.

Ms. Gardner handed out a Senior Center brochure and the Loaves and Fishes Annual Report. These documents are on file in the City Recorder's office.

3. UPDATE ON WASHINGTON COUNTY'S VISION WEST PROCESS

Assistant to the City Manager Liz Newton introduced Walt Peck, Washington County's communications officer. Mr. Peck updated the Council on the VisionWest process to date, future plans, and opportunities to participate.

After receiving input from 1,300 Washington County residents, the following nine issues of concern were identified:

- Aging and disabled
- Housing
- Children and families
- Primary healthcare
- Behavioral healthcare
- Education
- Training
- English as a second language
- Environment

The County determined that it could not address these issues on its own, but needed to establish collaborative relationships with a variety of organizations. Nine "issue teams" were created to develop practical strategies to address each issue. The teams placed an emphasis on developing collaborative partnerships among public agencies, civic groups, community involvement organizations, not-for-profit agencies, and the faith, education, and business communities. A non-profit organization called the Vision Action Network has been formed to create a forum for sharing information and to facilitate cooperation among these organizations. The Network currently has nine board members from various areas of the community. It is hoped that the board's representation will increase to 25 members.

Issue team reports will be available in early 2002, and the Vision Action Network expects to hire an executive director in the spring of the same year. The Network will be patterned after a similar organization in Austin, Texas, which has a staff of three.

4. DISCUSSION OF THE MODEL FOR THE PROPOSED NEW LIBRARY AND PUBLIC PARTICIPATION PLAN

Library Director Margaret Barnes introduced Kathy Sleeper and Lonn Hoklin of the New Library Construction Committee, and Marvin Diamond of the Library Board.

Ms. Sleeper talked about the proposed library's location at the corner of Hall and Wall, and read a poem she had written. The poem is on file in the City Recorder's office. Ms. Sleeper stated that the model has contour lines representing changes in elevation. There is parking for 190 vehicles. The proposed two-story, 47,000 square foot, building is mostly glass on the east side, facing Fanno Creek. Ms. Barnes described diagrams, which depict the layout of various library areas on each floor. The proposed building is red brick with metal trim, and there is room for a 27,000 square foot expansion.

Mr. Hoklin stated the goal of the public information plan, "A coordinated public information/education plan to provide the City of Tigard voters accurate information about the City bond measure for the proposed new library." He provided information on the plan's timeline, purpose and communication tools. He indicated that the level of activity regarding the new library will increase from this point on. Councilor Patton clarified the purpose of the plan was to provide information and was not to advocate for the bond measure. She emphasized that the model is dynamic, and this was the Committee's "best guess" at what the new library might look like. She added that if expansion were to occur, it would be to the east.

Meeting recessed to view the model at 7:55 p.m.

Meeting reconvened at 8:08 p.m.

5. UPDATE ON THE COMMUNICATION PLAN

Assistant to the City Manager Liz Newton offered an update on communication tools used by the City to inform, educate and involve the public. A memo, on file in the City Recorder's office, detailed each of the following avenues of communication:

Citizen Involvement Team (C.I.T.)

Meetings are aiming for a more polished look to cater to the television audience. Shortly, viewers will be able to e-mail their questions and comments to presenters, who will respond during the show.

Ms. Newton and Volunteer Coordinator Susan Koepping will be conducting training for C.I.T. facilitators.

Communication Plan

The City is striving for a unified communication effort, and is working on ways to share information between departments.

Neighborhood Meetings

Press Releases

City staff are encouraged to generate press releases. The City has been getting very good press coverage from its press releases.

Community Connectors

This program was featured as one of the "40 Excellent Things About Tigard" in a recent Tigard Times article. Ms. Newton hopes to attract more participants from the business community.

Cable Television

Details relating to the "Tigard Studio" are being ironed out prior to airing Planning Commission meetings. The City is awaiting a finalized contract before proceeding.

Cityscape

Format changes are planned to give the newsletter a fresh look.

Web Page

Preliminary demonstrations of the redesigned web site look great. Ms. Newton noted that the Council is slated to preview the updated site at its November 20 meeting.

Goal Guide

These will be updated quarterly with the next guide coming out in October. The Library will be the featured goal.

Bulletin Board

The City is awaiting software from Tualatin Valley Community Access.

City Manager Bill Monahan pointed out that through the Community Connector program, Ms. Newton has been working with various City departments to inform the public about complex development issues. Mr. Monahan stated that staff are enthusiastic and have a greater appreciation of being proactive when it comes to providing information to the public.

In response to a question from the Mayor, Ms. Newton responded that approximately 70 percent of Portland area households are connected to the internet.

6. DISCUSSION ON RENEWAL OF CONTRIBUTION OF FRANCHISE FEES FOR PUBLIC, EDUCATION, AND GOVERNMENT (PEG) ACCESS (METROPOLITAN COMMUNICATIONS COMMISSION – TUALATIN VALLEY COMMUNITY ACCESS)

Assistant to the City Manager Liz Newton discussed the percentage of franchise fees contributed to PEG Access. The City's current contribution is 15 percent, which is the minimum allowed under the intergovernmental agreement. Contract issues are pending. Council consensus was to retain the current contribution level of 15 percent.

7. DISCUSSION OF INTERNET POLICY

City Manager Bill Monahan described the City's current internet policy. Since the creation of the policy, several internet related issues have arisen. These problems have resulted in disciplinary action for two employees, necessitated the City add more protection to the system, placed the City's computer system at risk for uninvited materials and viruses. Mr. Monahan continued by saying that at a recent legal education class he was advised that permitting personal use of the internet increases the City's liability risk. As a result, Mr. Monahan recommended that the City eliminate all personal use of the internet.

Councilors Moore and Dirksen stated that this was an internal issue involving the day-to-day operation of the City. Councilor Patton agreed, and was supportive of Mr. Monahan's recommendation.

Mr. Monahan said that he would bring the policy back to Council for formal action.

8. COUNCIL LIAISON REPORTS: None.

9. NON-AGENDA ITEMS

Metro Greenspaces

Discussion of the County's efforts to obtain Metro support for parkland/greenspaces ensued. Mayor Griffith stated that he could not justify using Tigard taxpayer dollars to purchase parkland outside the City, however, he was very supportive of the County's efforts. Councilor Moore stated that the parkland under consideration, the Conklin, Stanley and Gage properties, was in the City's area of interest, and he was in favor of additional parks in any location. Councilor Dirksen stated that he would like to see natural areas preserved. Councilor Scheckla expressed concern over the County's reluctance to assess System

Development Charges to fund parks. Councilor Patton was supportive of the attempt to acquire parkland, but reiterated that Tigard tax dollars should not be used to purchase property outside the City. Mayor Griffith added that Washington County has not received its proportional share of Metro funding.

Since the status of the County's request to Metro was unclear, the Council agreed that Mayor Griffith should send a general letter of support regarding the County's efforts to acquire additional parkland through Metro. The letter should emphasize an equitable allocation of Metro funds, but no specific properties would be mentioned.

Metro's 2040 Growth Concept

The Council had no additions or changes to the Metro summary.

Make a Difference Day

Councilor Moore indicated he would be out of town.

Metro's Policy Advisory Committee (MPAC) Nomination

Lou Ogden will no longer be the primary representative to MPAC; Richard Kidd will take over this position. Mayor Griffith encouraged Councilors to consider participating on the Committee in the alternate position. He expressed his concern that Tigard has not had sufficient representation. Both Councilor Moore and Councilor Dirksen asked for additional information regarding the Committee and said they would think about serving. The issue will be revisited at the next Council meeting.

November 28 Meeting Postponed

The meeting with Beaverton and Washington County representatives regarding the Washington Square Regional Center Plan has been postponed.

Executive Session was called to order at 8:55 p.m.

10. EXECUTIVE SESSION: The Tigard City Council went into Executive Session to discuss real property transaction negotiations under ORS 192.660(1e).

Executive Session adjourned 9:22 p.m. and Business Meeting resumed

Meeting adjourned at 9:22 p.m.

Attest:

Greer A. Gaston, Deputy City Recorder

Mayor, City of Tigard

Date: _____

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**MEMORANDUM
CITY OF TIGARD, OREGON**

TO: City Council
FROM: Greer Gaston
DATE: December 4, 2001
SUBJECT: COUNCIL CALENDAR, December 2001 - February 2002

Regularly scheduled Council meetings are marked with an asterisk (*). If generally OK, we can proceed and make specific adjustments in the Monthly Council Calendars.

December

| | | |
|------|------|---|
| * 11 | Tues | Council Meeting - 6:30 p.m. Study Meeting - Business Meeting |
| * 18 | Tues | Council Meeting - 6:30 p.m. Study Meeting - Business Meeting |
| 25 | Tues | Christmas Day – City Offices Closed |

January

| | | |
|------|------|---|
| 1 | Tues | New Year's Day – City Offices Closed |
| * 8 | Tues | Council Meeting - 6:30 p.m. Study Meeting - Business Meeting |
| * 15 | Tues | Council Workshop Meeting - 6:30 p.m. |
| 21 | Mon | Martin Luther King, Jr. Day – City Offices Closed |
| * 22 | Tues | Council Meeting - 6:30 p.m. Study Meeting - Business Meeting |

February

| | | |
|------|------|---|
| * 12 | Tues | Council Meeting - 6:30 p.m. Study Meeting - Business Meeting |
| 18 | Mon | Presidents Day - City Offices Closed |
| * 19 | Tues | Council Workshop Meeting - 6:30 p.m. |
| * 26 | Tues | Council Meeting - 6:30 p.m. Study Meeting - Business Meeting |

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| | | |
|---|---|---|
| 12/18/01 - Business TV (taped/replay) | 1/8/02 - Business TV -Greeter | 1/14/02 - Goal Setting |
| Due: 12/4/01 @ Noon (Ed - Greeter) | Due: 12/24/01 @ Noon | |
| Study Session | Study Session | |
| Regional Drinking Water Agency Draft Proposal- Ed - 20 min (in Town Hall) | | Goal Setting at the Water Building - 1:00 |
| Jt Mtg with Budget Committee - Craig 30 min (in RRCCR) | | |
| WA Square Regional Center Plan | Consent Agenda | |
| Implementation Strategy Update - Barbara - 35 min | Budget Amendment - Lighting Retrofit - Craig 2002 Greenspaces Program - Ed & Dan | |
| Consent Agenda | | |
| Planning Commission Appointments - RES - Susan | | |
| R&F: Report on Review of TMC Updates - Cathy | Business Meeting | |
| Approve Sponsorship Agreements - 3 RES - - Cathy | VA - Nathan Leamy State of the City (SI) - Mayor - 20 min | |
| Approve Internet Policy - Bill | Executive Summary (SI) - Bill - 20 min | |
| Park SDC Annual Adjustment Methodology Revision & Annual Adjustment - RES - Duane | Vision 2001 Report - Loreen - 15 min Library Update - Margaret -15 min | |
| Business Meeting | Pacific Crest Annexation ZCA 2001-00001 - | |
| Planning Commission Appointee Introductions - Susan - 5 min | PHQJ - ORD - Matt S - 20 min TMC Update - Local Improvement Districts - Greg - ORD - 10 min | |
| TMC Update - Public Assemblies (Balloon Festival) - ORD & RES - Ron - 10 min | Preliminary Evaluation of Wall St LID - Gus - 15 min | |
| TMC Update - Police Dept 2.30 - ORD - Ron - 10 min | Daffodil Hill Annexation - PH - ORD - Brad - 15 min | |
| New Library Construction Comm Bond & Property Option Measure - Margaret - PH - RES - 30 min | TSP & Comp Plan Amendments to implement TSP - LEG PH - ORD - Julia - 45 min | |
| Tigard Central Business District - Tree Lighting Update - Jim H - 10 min | Establish Fees - Ordinance Resolution - Craig Blue Sheet | |
| TMC Update - Abandoned, Found, Seized and Stolen Property - ORD - Ron - 10 min | | |
| | | |
| I:/adm/greer/tentatv ag/tentative.xls | | |

| | | |
|--|---|---------------------------------------|
| 1/15/02 - Workshop | 1/22/02 - Business TV -Greeter | 2/12/02 - Business TV -Greeter |
| Due: 12/31/01 @ Noon | Due: 1/8/02 @ Noon | Due: 1/29/02 @ Noon |
| Workshop Topics | Study Session | Study Session |
| Joint Meeting with IWB on Regional Drinking Water Proposal - Ed - 40 min (PowerPoint Presentation and possibly a consultant.) | Update on Randall Grant Program - Liz - 10 min | |
| | | |
| | | |
| | | |
| | Consent Agenda | Consent Agenda |
| | Council Goal Update (SI) | |
| | | |
| | | |
| | | |
| | Business Meeting | |
| | Recognize Service on Planning Commission - Susan - 5 min | Business Meeting |
| | WA Square Regional Center Implementation & Code & Comprehensive Plan Amendments - PH - RES - ORD - Julia - 1 hr | VA - Nathan Leamy |
| | TMC Title 7 Criminal Code Amendment - ORD | |
| | Craig/Nadine - 5 min | |
| | TMC Chapter 2.20 Amendment - ORD | |
| | Craig/Nadine | |
| | Wall St LID - Approval of Preliminary Engineering Study - Gus - 5 min | |
| | Direction on Tigard Involvement in Portland Regional Drinking Water Proposal - Ed - 10 min. | |
| | Thornwood Annexation - PHQJ - ORD - Morgan -15 min | |
| | 69th LID Closeout - Gus - BLUE SHEET | |
| | Durham Quarry IGA - Jim - BLUE SHEET | |
| SI = standing item | | |
| I:/adm/greer/tentatv ag/tentative.xls | | |

AGENDA ITEM # _____
FOR AGENDA OF December 11, 2001

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE A Resolution Declaring Tigard's Intent to Join the Oregon Public Employees Retirement System State & Local Government Rate Pool

PREPARED BY: Sandy Zodrow DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

Should the City of Tigard elect to join the Oregon PERS State & Local Government Rate Pool?

STAFF RECOMMENDATION

Staff recommends passing a Resolution to approve the City of Tigard joining the State & Local Government Rate Pool.

INFORMATION SUMMARY

As Council will recall, sworn Police personnel are currently covered by the Public Employees Retirement System (PERS). The City Council previously elected to have the City of Tigard join the Public Employees Retirement System (PERS) **Local Government Rate Pool** which was established July 1, 2001. The purpose of joining that pool was to protect against future large fluctuations in the employer's rates. Prior to that PERS determined retirement and disability rates based on individual local employer accounts.

The 2001 Oregon Legislature Assembly adopted Senate Bill 134, which allows Oregon local government PERS employers to pool their pension costs with the State of Oregon, thereby creating an even larger pool for state and local employers to further manage government PERS contributions. The current **Local Government Rate Pool** will be abolished to establish the new **State and Local Government Pool**.

At this point, the City of Tigard has two options: 1) Join the new State & Local Government Pool, or 2) return to the pre-July 2001 situation when City of Tigard rates were determined solely by the City of Tigard's experience. PERS has not yet projected potential rates for the new pool, though it is likely that those rates will be similar to the rate the City of Tigard receives under the existing Local Government Rate Pool.

This matter has been reviewed by staff and it is our recommendation that the City join the new pool, in an effort to minimize the fluctuations in potential future retirement contributions that the City of Tigard may experience.

OTHER ALTERNATIVES CONSIDERED

Return to the pre-July 2001 PERS local government rating structure where PERS rates were based solely on the individual local government employer's experience.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

ATTACHMENT LIST

N/A

FISCAL NOTES

The fiscal impact will be determined by the PERS actuarial rate study.

CITY OF TIGARD, OREGON

RESOLUTION NO. 01-_____

A RESOLUTION DECLARING TIGARD'S INTENT TO JOIN THE OREGON PUBLIC EMPLOYEES' RETIREMENT SYSTEM STATE & LOCAL GOVERNMENT RATE POOL

WHEREAS, the City of Tigard sworn Police personnel are covered by the Oregon Public Employees' Retirement System (PERS), and

WHEREAS, Oregon PERS has tracked individual and local employer accounts separately from state government accounts, and

WHEREAS, Local government rates have been subject to fluctuations due, in part, to the difficulty in predicting retirement and disability rates for small pools of employees, and

WHEREAS, PERS created a Local Government Pool on July 1, 2001 to moderate large fluctuations in local government employers' PERS rates, and

WHEREAS, the City of Tigard, by Resolution #01-19 opted to join the PERS Local Government Pool, and

WHEREAS, the 2001 Oregon Legislative Assembly adopted Senate Bill 134 allowing Oregon local government PERS employers to join the existing State Government Pool, thereby creating a larger base of employees which will tend to moderate rate fluctuations more than individual Local Government and State Government Pools, and

WHEREAS, the Board of Trustees of PERS has adopted Oregon Administrative Rule 459-009-0070 which allows formation of a State & Local Government Rate Pool, and

WHEREAS, the Local Government Pool will be abolished to establish the new PERS State & Local Government Rate Pool, and

WHEREAS, the City Council has determined that it would be prudent for the City of Tigard to join the PERS State & Local Government Rate Pool to protect against future large fluctuations in its employer rate.

RESOLUTION NO. 01-__

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The City of Tigard, Oregon PERS employer number 2295, elects to join the Oregon PERS State & Local Government Rate Pool.

EFFECTIVE DATE: January 1, 2002

PASSED: This _____ day of _____ 2001.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

AGENDA ITEM # _____
FOR AGENDA OF December 11, 2001

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Authorize the Mayor to Execute and Endorse an Amendment to the Agreement with the League of Oregon Cities Governing the League Status as a Unit of Local Government

PREPARED BY: Cathy Wheatley DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

Council consideration of an amendment to the 190 Agreement for the League of Oregon Cities.

STAFF RECOMMENDATION

Adopt the proposed resolution.

INFORMATION SUMMARY

Attached is a copy of a communication from the League of Oregon Cities (LOC) concerning the amendment of the League's Constitution at the recent LOC conference. The changes include the addition of two more Directors to the LOC Board and some simple word-smithing changes. A "working copy" of the Agreement is attached that shows the changes. None of the Constitutional changes reflect a change in the way the League functions or the relationship between the League and its members. The League is asking member cities to approve a resolution enacting an amended 190 Agreement for the League.

OTHER ALTERNATIVES CONSIDERED

N/A

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

ATTACHMENT LIST

1. Proposed resolution with the amended Intergovernmental Agreement (Attachment A).
2. Communication from the League of Oregon Cities.
3. "Working copy" of the Agreement.

FISCAL NOTES

N/A
I:\ADM\PACKET '01\20011211\LOC 190 AGREEMENT AIS.DOC

CITY OF TIGARD, OREGON

RESOLUTION NO. 01-_____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AND ENDORSE AN AMENDMENT TO THE AGREEMENT WITH THE LEAGUE OF OREGON CITIES GOVERNING THE LEAGUE STATUS AS A UNIT OF LOCAL GOVERNMENT, SIMILAR TO OTHER COOPERATIVE INTERGOVERNMENTAL AGENCIES IN WHICH CITIES CREATE AND PARTICIPATE

WHEREAS, the Council has found that it is necessary and desirable to endorse and adopt an amendment to the agreement proposed by the League of Oregon Cities.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The Mayor is hereby authorized to execute and endorse the agreement with the League of Oregon Cities of which the City of Tigard is a member, governing the League status as a unit of local government, similar to other cooperative intergovernmental agencies that cities create and participate in, all this is the State of Oregon, upon the terms and conditions as set forth in an agreement entitled "Intergovernmental Agreement of Oregon Cities," a copy of which is attached hereto as Exhibit "A" and incorporated by reference herein.

SECTION 2: This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2001.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

I:\ADM\PACKET '01\20011211\LOC 190 AGREEMENT RES.DOC

RESOLUTION NO. 01-__

Exhibit A

**INTERGOVERNMENTAL AGREEMENT
OF OREGON CITIES**

THIS AGREEMENT made and entered into this _____ day of _____, 20____ by each city of the State of Oregon agreeing to enter into the same by ordinance or resolution, and every other city having also so agreed and being collectively referred to herein as "CITIES", now therefore

WITNESSETH:

RECITALS:

1. This is an agreement for intergovernmental cooperation by units of local government under ORS 190.010 to ORS 190.111 inclusive, in performing functions and providing services which all of the parties have authority to perform and provide.

2. For purposes of this agreement, the organization created by the Cities to perform certain functions and activities herein set forth shall be deemed a consolidated department of all of the Cities who are parties to this agreement to carry the same out by a combination of methods provided for in ORS 190.020.

3. This agreement reduces to writing the terms, conditions, purposes and objects of services, functions and activities of the League of Oregon Cities performed since 1926 as a cooperative and joint endeavor of Oregon Cities. Nothing herein is intended to change its status as being for some purposes a political subdivision of the State of Oregon, an instrumentality of the State and its Cities for better administration of public affairs, and an agency or instrumentality for performing governmental functions owned and controlled by the Cities of Oregon.

THE CITIES OF OREGON BECOMING PARTIES HERETO AGREE:

I. ACTIVITIES:

1. To form and continue an organization for the cooperative provision of local governmental services, to perform governmental purposes and functions as hereinafter set further under the name of the League of Oregon Cities, hereinafter referred to as the "League."

2. The League of Oregon Cities shall have the following purposes and functions:

- a. To maintain an organization to secure cooperation among the cities of the state by thorough study of local problems, and in the application of efficient methods to local government;
- b. To provide a means whereby officials may interchange ideas and experiences and obtain expert advice;
- c. To collect, compile and distribute to municipal officials information about municipal government and the administrator of municipal affairs;
- d. To engage in the study and preparation of uniform ordinances and practices;
- e. To formulate and promote such legislation as will be beneficial to the cities of the state and the citizens thereof and to oppose legislation detrimental thereto, but not to expend monies in favor of or in opposition to any public measure initiated by or referred to the people, or for or against the election of any candidate for public office;
- f. To provide such services to cities as cities may authorize and require through the League of Oregon Cities, including but not limited to assistance in collective bargaining with employees,¹ liability,² casualty,² and health insurance,³ and the provision of joint facilities for local governments with other governmental units acting singly or cooperative. To that end the League may create or participate in appropriate entities and trusts which are suitable and convenient for carrying out its purposes;
- g. To secure harmony of action among municipalities in matters that affect the rights and liabilities of cities;
- h. To institute or participate in litigation in the name of a member city, upon request of such city, or in its own name for the purpose of securing a determination relative to the rights and liabilities of cities of Oregon under any constitutional provision, statute or ordinance; to appear as a friend of the Court in any Court proceeding wherein the rights and liabilities of cities are affected; to appoint or employ counsel for the purpose herein mentioned;

- i. To adopt and amend, from time to time, such rules, regulations, constitution and bylaws as are not inconsistent with this agreement;
- j. To do any and all other things necessary or proper for the benefit of the cities of Oregon which the cities themselves might do singly or in cooperation with other units or agencies of government.

II. GOVERNANCE AND CONTROL:

1. The Board of Directors shall have general supervision over all of the affairs of the organization, subject to the will of the organization expressed any duly called meeting. The Board of Directors shall possess all powers necessary to carry out the provisions of this agreement and the specific purposes and functions set forth in Section I, ACTIVITIES, including but not limited to the power on behalf of the League of Oregon Cities, directly or through other entities, to rent, lease, purchase, receive and hold property, both real and personal, and to rent, lease, mortgage, hypothecate, sell or otherwise dispose of the same.

2. The Board of Directors shall consist of the officers and Directors of the League.

3. The officers of the League shall be a President, Vice President, Treasurer, Past-President, eleven members at large, and an Executive Director, each of whom, with the exception of the Executive Director, shall hold an elective or appointment position in a city who is a participant in this agreement. The officers shall exercise the usual powers and duties incident to their offices and as provided herein.

4. All officers, except the Executive Director, shall be elected at the annual conference of the League for a term of one year and shall hold office until their successors are elected and qualified. The Executive Director shall be appointed by the Board of Directors and shall hold office at the pleasure of said committee.

5. Any vacancy in office shall be filled by appointment by the President, subject to the approval of the Board of Directors.

6. Meetings of the Board of Directors may be held at any time upon call of the President or of any three members. A majority of incumbent members shall constitute a quorum. The members of the Board of Directors may vote either in person or by mail upon any issue submitted to the Committee.

III. PROVISION OF FUNDS:

1. The cities shall provide the revenues for payment of expenses incurred in the performance of the functions and activities of the League by the payment of annual fees or assessments based upon the populations of the respective cities entering into this agreement, as established by the Board of Directors no later than January 1 of any calendar year the assessment is levied for the fiscal year beginning on July 1, in an amount sufficient to finance the expenses of the League for each year.⁴

2. An annual charge, established by the Board of Directors, may also be made to separate boards or commissions of any city also desiring to participate in activities of the League.

3. The Board of Directors may also levy assessments, in addition to the annual fee or assessment, for maintenance of the Legislative Service Bureau, during sessions of the State Legislature.

4. The League may also make such other charges for direct services furnished to cities or others as the Board of Directors may approve.

5. Incidental income from any activity shall be devoted solely to the governmental purposes of the League and its member cities. No profit from any activity shall inure to the benefit of any private person, firm or corporation.

6. No funds shall be expended except upon a vote of the Board of Directors and in furtherance of the objects and purposes of the League. All funds, revenues and expenditures of the League shall be audited at least annually.⁵

IV. MEETINGS:

1. An annual conference of the League shall be held each year at the time and place to be determined by the Board of Directors. The program of the annual convention shall be arranged by or under the direction thereof.

2. Special meetings of the League may be called by the President or the Board of Directors at any time by giving notice to the Recorder, or other designated official, of each member city, at least ten (10) days prior to the date of the meeting. The notice shall state the purpose of the meeting.

3. Regional meetings may be called at any time by the President or Board of Directors for the benefit of city officials located in various sections of the state. Resolutions adopted at the regional meetings shall be forwarded to the Board of Directors.

4. All questions of parliamentary practice shall be decided according to Roberts Rules of Order, newly revised.

5. There shall be no limit upon the number of delegates to be sent by an member city to a meeting of the League. All delegates may be heard in debate, but each member city shall be entitled to only one vote. Each delegation shall select one of its members as chairperson to express or record its vote.

V. EXECUTIVE DIRECTOR/EMPLOYEES:

The Executive Director shall be the chief administrative officer of the League and be responsible to the Board of Directors for such duties as may be assigned by it. The League, through the Board of Directors, may employ such other employees as necessary to carry out the purposes, activities and functions of the League under this agreement. This agreement does not contemplate the transfer of any personnel.⁶

VI. DURATION/TERM:

The term of this agreement shall be perpetual.⁷ The parties hereto shall have the right to terminate their participation herein as a party at any time, by ordinance or resolution forwarded to the Executive Director. The entire agreement may be terminated at any time by a two-thirds vote of the cities then participating.⁸ The agreement may be amended at any time, by agreement with each city participating by ordinance or resolution in the same manner as originally entered into.

VII. RIGHTS UPON TERMINATION:

Upon termination of the agreement the cities then participating shall mutually agree upon the transfer of personnel or the division of assets and liabilities between the parties and in the event that they are unable to agree, then venue shall be established in the Circuit Court of Multnomah, Marion, or Lane County to determine that transfer or division.⁹ No city shall be liable, upon termination, for any dues, charges, assessments or other liabilities of any kind beyond the year in which such city ceases to participate or in which the agreement is terminated.

VIII. EXECUTION:

The resolution or ordinances of each participating city agreeing hereto shall be placed on file with the original of this agreement.

The City of _____, a municipal corporation

By: _____

ATTEST:

City Recorder, City of Tigard

FOOTNOTES

1. Chapter 243 ORS
2. ORS 731.036 (4)
3. ORS 731.036 (5)
4. ORS 190.020 (1) (a)
5. ORS 190.020 (1) (b)
6. ORS 190.020 (1) (c)
7. ORS 190.020 (1) (e)
8. ORS 190.020 (1) (f)
9. ORS 190.020 (2)



As some of you already know, during last week's League conference the League's Constitution was amended by adding two additional Directors to its Board as well as other simple word-smithing changes. None of the Constitutional changes reflect a change in the way the League functions or the relationship between the League and its members.

Because of these constitutional changes, *it is now necessary for member cities of the League to approve the attached **Resolution** enacting an amended **190 Agreement** for the League of Oregon Cities.*

All current members of the League enacted a similar agreement in the early 1980s. The 190 Agreement is our "enactment document" and reflects under Chapter 190 of the Oregon Statutes that two or more cities can join to provide services for themselves through an association.

Attached is the revised 190 Agreement and accompanying Resolution for passage. We're asking that, at your next regularly scheduled council meeting, each City Council approve the new Resolution and sign the new 190 Agreement. *Please forward to our office both a copy of the Resolution and signed Agreement by **January 1, 2002.***

We will also mail this information to all cities within the next week. If you'd like an **electronic** copy of the Agreement and/or Resolution, it is available on our web site at www.orcities.org/loc/About/governance.cfm. You can also find on the site the League's Constitution and Bylaws with the recent changes noted.

Please contact our office if you have any questions (503/588-6550 or 1-800-452-0338).

For informational purposes only.

(Italics) = deletions

Bold underlined = additions

INTERGOVERNMENTAL AGREEMENT OF OREGON CITIES

THIS AGREEMENT made and entered into this _____ day of _____, 20____ by each city of the State of Oregon agreeing to enter into the same by ordinance or resolution, and every other city having also so agreed and being collectively referred to herein as "CITIES", now therefore

WITNESSETH:

RECITALS:

1. This is an agreement for intergovernmental cooperation by units of local government under ORS 190.010 to ORS 190.111 inclusive, in performing functions and providing services which all of the parties have authority to perform and provide.

2. For purposes of this agreement, the organization created by the Cities to perform certain functions and activities herein set forth shall be deemed a consolidated department of all of the Cities who are parties to this agreement to carry the same out by a combination of methods provided for in ORS 190.020.

3. This agreement reduces to writing the terms, conditions, purposes and objects of services, functions and activities of the League of Oregon Cities performed since 1926 as a cooperative and joint endeavor of Oregon Cities. Nothing herein is intended to change its status as being for some purposes a political subdivision of the State of Oregon, an instrumentality of the State and its Cities for better administration of public affairs, and an agency or instrumentality for performing governmental functions owned and controlled by the Cities of Oregon.

THE CITIES OF OREGON BECOMING PARTIES HERETO AGREE:

I. ACTIVITIES:

1. To form and continue an organization for the cooperative provision of local governmental services, to perform governmental purposes and functions as hereinafter set further under the name of the League of Oregon Cities, hereinafter referred to as the "League."

2. The League of Oregon Cities shall have the following purposes and functions:

a. To maintain an organization to secure cooperation among the cities of the state by thorough study of local problems, and in the application of efficient methods to local government;

b. To provide a means whereby officials may interchange ideas and experiences and obtain expert advice;

- c. To collect, compile and distribute to municipal officials information about municipal government and the administrator of municipal affairs;
- d. To engage in the study and preparation of uniform ordinances and practices;
- e. To formulate and promote such legislation as will be beneficial to the cities of the state and the citizens thereof and to oppose legislation detrimental thereto, but not to expend monies in favor of or in opposition to any public measure initiated by or referred to the people, or for or against the election of any candidate for public office;
- f. To provide such services to cities as cities may authorize and require through the League of Oregon Cities, including but not limited to assistance in collective bargaining with employees,¹ liability,² casualty,² and health insurance,³ and the provision of joint facilities for local governments with other governmental units acting singly or cooperative. To that end the League may create or participate in appropriate entities and trusts which are suitable and convenient for carrying out its purposes;
- g. To secure harmony of action among municipalities in matters that affect the rights and liabilities of cities;
- h. To institute or participate in litigation in the name of a member city, upon request of such city, or in its own name for the purpose of securing a determination relative to the rights and liabilities of cities of Oregon under any constitutional provision, statute or ordinance; to appear as a friend of the Court in any Court proceeding wherein the rights and liabilities of cities are affected; to appoint or employ counsel for the purpose herein mentioned;
- i. To adopt and amend, from time to time, such rules, regulations, constitution and bylaws as are not inconsistent with this agreement;
- j. To do any and all other things necessary or proper for the benefit of the cities of Oregon which the cities themselves might do singly or in cooperation with other units or agencies of government.

II. GOVERNANCE AND CONTROL:

1. The Board of Directors shall have general supervision over all of the affairs of the organization, subject to the will of the organization expressed any duly called meeting. The Board of Directors shall possess all powers necessary to carry out the provisions of this agreement and the specific purposes and functions set forth in Section I, ACTIVITIES, including but not limited to the power on behalf of the League of Oregon Cities, directly or through other entities, to rent, lease, purchase, receive and hold property, both real and personal, and to rent, lease, mortgage, hypothecate, sell or otherwise dispose of the same.

2. The Board of Directors shall consist of the officers and Directors of the League.

3. The officers of the League shall be a President, Vice President, Treasurer, Past-President, (nine) eleven members at large, and an Executive (*Secretary*) Director, each of whom, with the exception of the Executive (*Secretary*) Director, shall hold an elective or appointment position in a city who is a participant in this agreement. The officers shall exercise the usual powers and duties incident to their offices and as provided herein.

4. All officers, except the Executive (*Secretary*) Director, shall be elected at the annual conference of the League for a term of one year and shall hold office until their successors are elected and qualified. The Executive (*Secretary*) Director shall be appointed by the Board of Directors and shall hold office at the pleasure of said committee.

5. Any vacancy in office shall be filled by appointment by the President, subject to the approval of the Board of Directors.

6. Meetings of the Board of Directors may be held at any time upon call of the President or of any three members. *(Five members shall constitute a quorum.)* **A majority of incumbent members shall constitute a quorum.** The members of the Board of Directors may vote either in person or by mail upon any issue submitted to the Committee.

III. PROVISION OF FUNDS:

1. The cities shall provide the revenues for payment of expenses incurred in the performance of the functions and activities of the League by the payment of annual fees or assessments based upon the populations of the respective cities entering into this agreement, as established by the Board of Directors no later than January 1 of any calendar year the assessment is levied for the fiscal year beginning on July 1, in an amount sufficient to finance the expenses of the League for each year.⁴

2. An annual charge, established by the Board of Directors, may also be made to separate boards or commissions of any city also desiring to participate in activities of the League.

3. The Board of Directors may also levy assessments, in addition to the annual fee or assessment, for maintenance of the Legislative Service Bureau, during sessions of the State Legislature.

4. The League may also make such other charges for direct services furnished to cities or others as the Board of Directors may approve.

5. Incidental income from any activity shall be devoted solely to the governmental purposes of the League and its member cities. No profit from any activity shall inure to the benefit of any private person, firm or corporation.

6. No funds shall be expended except upon a vote of the Board of Directors and in furtherance of the objects and purposes of the League. All funds, revenues and expenditures of the League shall be audited at least annually.⁵

IV. MEETINGS:

1. An annual conference of the League shall be held each year at the time and place to be determined by the Board of Directors. The program of the annual convention shall be arranged by or under the direction thereof.

2. Special meetings of the League may be called by the President or the Board of Directors at any time by giving notice to the Recorder, or other designated official, of each member city, at least ten (10) days prior to the date of the meeting. The notice shall state the purpose of the meeting.

3. Regional meetings may be called at any time by the President or Board of Directors for the benefit of city officials located in various sections of the state. Resolutions adopted at the regional meetings shall be forwarded to the Board of Directors.

4. All questions of parliamentary practice shall be decided according to Roberts Rules of Order, **newly revised**.

5. There shall be no limit upon the number of delegates to be sent by an member city to a meeting of the League. All delegates may be heard in debate, but each member city shall be entitled to only one vote. Each delegation shall select one of its members as chairperson to express or record its vote.

V. EXECUTIVE (SECRETARY) DIRECTOR/EMPLOYEES:

The Executive (Secretary) **Director** shall be the chief administrative officer of the League and be responsible to the Board of Directors for such duties as may be assigned by it. The League, through the Board of Directors, may employ such other employees as necessary to carry out the purposes, activities and functions of the League under this agreement. This agreement does not contemplate the transfer of any personnel.⁶

VI. DURATION/TERM:

The term of this agreement shall be perpetual.⁷ The parties hereto shall have the right to terminate their participation herein as a party at any time, by ordinance or resolution forwarded to the Executive (Secretary) **Director**. The entire agreement may be terminated at any time by a two-thirds vote of the cities then participating.⁸ The agreement may be amended at any time, by agreement with each city participating by ordinance or resolution in the same manner as originally entered into.

VII. RIGHTS UPON TERMINATION:

Upon termination of the agreement the cities then participating shall mutually agree upon the transfer of personnel or the division of assets and liabilities between the parties and in the event that they are unable to agree, then venue shall be established in the Circuit Court of Multnomah, Marion, or Lane County to determine that transfer or division.⁹ No city shall be liable, upon termination, for any dues, charges, assessments or other liabilities of any kind beyond the year in which such city ceases to participate or in which the agreement is terminated.

VIII. EXECUTION:

The resolution or ordinances of each participating city agreeing hereto shall be placed on file with the original of this agreement.

The City of _____, a municipal corporation

By: _____

By: _____

ATTEST: _____

FOOTNOTES

1. Chapter 243 ORS
2. ORS 731.036 (4)
3. ORS 731.036 (5)
4. ORS 190.020 (1) (a)
5. ORS 190.020 (1) (b)
6. ORS 190.020 (1) (c)
7. ORS 190.020 (1) (e)
8. ORS 190.020 (1) (f)
9. ORS 190.020 (2)

M:\LOC\Publications\190 Agmt with revisions.wpd

Resolution No. _____

A RESOLUTION AUTHORIZING THE MAYOR AND _____ OF THE CITY
(Council if appropriate)
OF _____ TO EXECUTE AND ENDORSE **AN AMENDMENT TO THE**
AGREEMENT WITH THE LEAGUE OF OREGON CITIES GOVERNING THE LEAGUE STATUS
AS A UNIT OF LOCAL GOVERNMENT, SIMILAR TO OTHER COOPERATIVE
INTERGOVERNMENTAL AGENCIES IN WHICH CITIES CREATE AND PARTICIPATE.

WHEREAS, the Council has found that it is necessary and desirable to endorse and adopt **an amendment to** the agreement proposed by the League of Oregon Cities.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of
_____ that the Mayor and _____ are hereby authorized to
execute and endorse the agreement with the League of Oregon Cities of which the City of
_____ is a member, governing the League status as a unit of local
government, similar to other cooperative intergovernmental agencies that cities create and
participate in, all this in the State of Oregon, upon the terms and conditions as set forth in an
agreement entitled "Intergovernmental Agreement of Oregon Cities," a copy of which is attached
hereto as Exhibit "A," and incorporated by reference herein.

Dated this _____ day of _____, 20____.

(Mayor)

ATTEST:

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Intergovernmental Agreement between the City of Tigard and the City of Beaverton for the construction of a Water System Intertie

PREPARED BY: Dennis Koellermeier DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

Shall the Local Contract Review Board agree to enter into an Intergovernmental Agreement with the City of Beaverton for the construction of a water system intertie, and authorize the City manager to sign such agreement?

STAFF RECOMMENDATION

Approve the Intergovernmental Agreement and authorize the City Manager to sign the agreement, approve payments, and approve contract change orders up to 20% of the contract price.

INFORMATION SUMMARY

This project was approved in the Water CIP portion of this fiscal year's budget, and was identified in our "Water Distribution System Hydraulic Study" adopted in May of 2000. Our project, when coupled with a similar project being built by the City of Beaverton, will intertie the water transmission systems of the two Cities and allow approximately 4 millions gallons per day of water produced by the Joint Water Commission, to be delivered to Tigard via Beaverton's system.

The attached draft of the Intergovernmental Agreement has been reviewed and approved by both City staff and the City Attorney's office. It is in draft form because we are awaiting final edits from the Joint Water Commission staff, who may propose minor changes to the current language or including the Joint Water Commission as a partner in the agreement. These issues should be resolved by the December 11, 2001 City Council meeting and a final version of the agreement will be presented at that time.

OTHER ALTERNATIVES CONSIDERED

The traditional approach to construct this project would be to design, bid, and contract independently of the City of Beaverton. Our consulting engineers advise us that this traditional approach would cost Tigard an additional \$20,000 in fees to the consultant and the contractor.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

"Tigard Beyond Tomorrow" states a goal of "actively participating in regional development of drinking water sources." This project supports that goal by providing piping capacity to allow regionally developed water (Trask / Tualatin) to delivered to Tigard. In addition , by signing this Intergovernmental Agreement Tigard is forwarding our commitment to a cooperative relationship with Beaverton and the Joint Water Commision.

ATTACHMENT LIST

Attached are copies of the draft Intergovernmental Agreement, which has attachments consisting of:

- Exhibit A- existing Memorandum of Understanding between Tigard and the Joint Water Commission
- Exhibit B- existing 1983 Intergovernmental Agreement between Tigard and Beaverton
- Exhibit C- Project Map
- Exhibit D- Proposal from MSA for Engineering services relating to the Tigard/Beaverton Intertie Project
- Exhibit E- Project Cost Allocation Chart

FISCAL NOTES

Project cost to Tigard is currently estimated at \$221,548. Final cost will be subject to construction contract bidding, changes orders, etc. Current Budget approved for this project is \$275,000.

DRAFT 11/21/01

BEAVERTON/TIGARD INTERCONNECTION PIPELINE AND MASTER METER INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF BEAVERTON THE CITY OF TIGARD

This agreement, dated _____, 2001, is between the CITY OF BEAVERTON (Beaverton) and the CITY OF TIGARD (Tigard).

A. RECITALS

WHEREAS, ORS 190.003 - 190.110 encourages intergovernmental cooperation and authorizes local government entities to delegate to each other authority to perform their respective functions as necessary; and

WHEREAS, the City of Tigard desires to purchase drinking water by intergovernmental agreement from the Joint Water Commission (JWC), Beaverton's main supply agency, or from the City of Beaverton in a volume up to 4 million gallons per day, to supplement other sources of water for its customers; and,

WHEREAS, the City of Tigard entered into a Memorandum Of Understanding (MOU) with the Joint Water Commission on May 18, 2001, attached as Exhibit "A", which includes a provision for Tigard to purchase water originating from the JWC upon consent of the JWC members and at rates and terms mutually agreed upon between Tigard and the JWC; and,

WHEREAS, Tigard and Beaverton previously entered into an intergovernmental agreement on July 1, 1982, attached as Exhibit "B", for the purposes of supplying water between both parties; and,

WHEREAS, The parties wish to design and construct an intertie pipeline, master meter and telemetry between Beaverton's water system and Tigard to provide water to the other party in either direction as indicated on the attached map Exhibit "C"; now, therefore

IT IS AGREED:

1. Beaverton with Tigard's approval has awarded a professional services contract to Murray Smith and Associates (MSA) for design and construction engineering consultant. The scope of MSA's work is described on Exhibit "D" to this Agreement. Beaverton shall administer that contract but Tigard shall have the right to review and accept MSA's design work product including design drawings and construction specifications as to Tigard's portion of the Project.

DRAFT 11/21/01

2. Beaverton shall administer the bidding, contract award and construction of the Project, including review, approval and payment of progress payments to the construction contractor. Beaverton shall describe Tigard's portion of the Project on a separate bid schedule and invite bids on that work as a bid alternate to Beaverton's portion of the work. Tigard may review and approve the bid documents before Beaverton publishes those documents and calls for bids. Beaverton shall be named as the "Owner" of the Project on the construction contract documents including the surety bonds.
3. At its discretion, Tigard may participate in the pre-bid meeting, bid review and selection of the construction contractor and may review and approve all pay requests and progress payments administered by Beaverton as they apply to Tigard portion of the Project. Tigard shall defend Beaverton against and hold Beaverton harmless from any and all claims that the contractor may assert against Beaverton that are based on disapproval by Tigard of payment of any of the contract price. Beaverton will provide for all field inspection and Beaverton alone shall communicate with the construction contractor on the Project. Tigard may review and provide oversight inspection of its own to monitor progress of the construction work. Each party shall finally inspect and accept its own portions of the Project. At Tigard's request and at Tigard's expense Beaverton shall cause changes to the construction work desired by Tigard, including change orders and directives for extra work to add to or modify the design for Tigard's portion of the work. Beaverton and Tigard each shall be responsible to operate its own water system, including actions necessary to coordinate with the construction contractor's work, for the duration of the Project.
4. The parties estimate the total construction cost of the Project to be \$479,048 of which Tigard's portion is estimated to be \$221,548, shown in attached Exhibit "E". Tigard reserves the right to reject any bid that exceeds that estimate as to Tigard's portion of the work and further reserves the right to reject any and all bids if Tigard's contract review board deems that the public interest so requires. If Tigard directs Beaverton to award Tigard's portion of the Project, Tigard will reimburse Beaverton for both (design and construction) engineering costs and for construction costs associated with the intertie connection piping from Tigard to the Tigard side of the proposed master meter and pressure reducing vault (as described on Page 2 of 4 in Exhibit "E"); and one-half of the equivalent cost of interconnection piping from the master meter and pressure reducing valve vault to the intersection of SW Barrows Road and Scholls Ferry Road. The cost of the latter section of interconnection piping is to more evenly distribute cost of the joint Project and since the master meter and pressure reducing valve vault was moved south of the initial location for design constraint reasons. Beaverton shall provide Tigard with as-built drawings acceptable to the City within three months of completion of the Project.

Upon final completion and acceptance of the Project, permanent ownership and maintenance responsibilities for improvements that are constructed shall be allocated as follows:

DRAFT 11/21/01

- Tigard shall own and maintain the intertie connection piping from Tigard to the Tigard side of the proposed master meter and pressure reducing valve vault (as described on Page 2 of 4 of the engineering services Scope of Work in Exhibit “D” and;
- Beaverton shall own and maintain the master meter, pressure reducing valve, and vault and all piping on the Beaverton side of that vault.

Water Sales

Water to be purchased from Beaverton by Tigard shall be in accordance with the attached MOU Exhibit “A” and agreement Exhibit “B” and other applicable agreements between Beaverton and the Joint Water Commission. Rate methodology established in the 1982 agreement (Exhibit “B”) is not applicable to the parties current circumstances. This Agreement replaces the rates provision of the 1982 agreement and any other valid previous agreements. The rate(s) shall be established by MOU subsequently negotiated and executed by the Mayor of Beaverton and the City Manager of Tigard which sets rates for water passing in either direction through all master meters.

General Terms

The paragraph headings contained in this Agreement are for ease of reference only and shall not be used in constructing or interpreting this Agreement.

1. Waiver and Amendment.

No waiver of any portion of this Agreement and no amendment, modification or alteration of this Agreement shall be effective unless made in writing and signed by the authorized representative of each party.

2. Interpretation of Agreement.

This Agreement shall not be construed for or against any party by reason of the authorship or alleged authorship of any provision.

3. Term of Agreement.

This Agreement takes effect on the date it is signed by the authorized representatives of the each city and shall remain in effect until completion by both parties of all their respective obligations under this Agreement unless the Agreement is earlier terminated by mutual agreement of the parties and in accordance with the terms of this Agreement.

4. Termination and Amendment.

This Agreement may be terminated or amended by mutual written agreement of both parties. The Agreement shall run for a term of ten (10) years ending on December 31, 2011, and may continue thereafter indefinitely until cancelled by either party upon six (6) months prior written notice of intention to cancel.

DRAFT 11/21/01

5. Dispute Resolution.

If any dispute arising out of this Agreement cannot be resolved by the Beaverton and Tigard staff representatives, the matter will be referred to the staff representatives' respective supervisors for resolution. If the supervisors are unable to resolve the dispute within 30 days of referral, the matter will be referred to Beaverton's Mayor and Tigard's City Manager, who will attempt to resolve the issue. If these executive staff are not able to resolve the dispute, the parties will submit the matter to arbitration under ORS Chapter 34. Federal rules of discovery and evidence shall apply in any such arbitration. The decision of the arbitrator shall be final, binding and conclusive upon the parties and subject to appeal only as otherwise provided in Oregon law. The parties shall continue in the performance of their respective obligations notwithstanding the dispute.

DRAFT 11/21/01

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed the day and year first written above.

CITY OF TIGARD

CITY OF BEAVERTON

By: _____
City Manager

By: _____
Rob Drake, Mayor

City Recorder

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____
Tigard Attorney

By: _____
Beaverton Attorney

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is made between the City of Tigard, an Oregon municipal corporation ("Tigard"), and the Joint Water Commission ("JWC"), an intergovernmental entity created pursuant to ORS Chapter 190.

RECITALS

A. JWC owns and operates a water storage facility, water treatment plant and water supply system ("System") that provides treated water to the distribution systems of its members to-wit: the City of Beaverton, an Oregon municipal corporation ("Beaverton"); the City of Hillsboro, an Oregon municipal corporation ("Hillsboro"); the City of Forest Grove, an Oregon municipal corporation ("Forest Grove"); and the Tualatin Valley Water District, a domestic water supply district ("TVWD").

B. Each Member of the JWC has made various and sundry capital contributions to the JWC System and has an acquired ownership interests in the various components. Each Member has acquired and retained ownership of water rights, which are made available to the JWC for usage in the System.

C. Tigard owns and operates a municipal water supply system within its City limits and also provides water service to the Cities of King City and Durham, and certain unincorporated areas within Washington County within the boundaries of the Tigard Water District.

D. The Parties agree that mutual cooperation relating to planning for the development or expansion of water sources in the Tualatin River Basin and treatment and supply facilities for such water should result in greater efficiency and security of the water supply system to the benefit of all.

AGREEMENT

1. Tigard and the JWC agree to cooperate in the planning, research, analysis, and development for expansion of water sources in the Tualatin River Basin and water supply facilities therefore that will provide mutual benefits to the parties. Cooperation may include interties between distribution systems, joint development of facilities that could provide service to the parties, the provision of surplus water by one party to the other, and the provision of emergency water supplies by one party to the other.

2. Tigard will support efforts to expand the Scoggins Reservoir or other Tualatin River Basin sources as part of the Regional Water Supply Plan and cooperation in the studies to determine the feasibility of such expansion, such as the current Integrated Water Resource Management Study Memorandum of Understanding dated May 18, 2001.

3. Tigard may become a member of JWC if Tigard applies for and obtains water rights for additional source water in the Tualatin River Basin and JWC, its Members, and Tigard are able to agree upon the terms of Tigard's membership in JWC.

4. Any capital projects that Tigard, JWC, and some or all of the Members may participate in prior to Tigard's membership in JWC, shall be constructed only after a Construction Agreement between Tigard, JWC, and the affected Members is executed. If Tigard withdraws from any capital project after completion, Tigard shall be paid according to the terms of the Construction Agreement or the JWC Membership Agreement, as applicable.

5. JWC agrees that if the System has surplus water available in excess of JWC's needs and those of its Members, it will sell water to Tigard upon consent of the Members. The Parties agree that prior to said sales, the amount, term and rate methodology shall be mutually agreed upon.

6. This Agreement may be terminated at any time by mutual agreement of the Parties. This Agreement may be terminated by any Party giving 12 months notice of termination. Notices required under this Agreement shall be sent to:

City of Tigard
c/o Public Works Director
13125 SW Hall Blvd.
Tigard, OR 97223

Joint Water Commission
c/o General Manager
City of Hillsboro
123 West Main, Room 250
Hillsboro, OR 97123

With a copy to each of the following entities:

City of Beaverton
c/o City Mayor
4755 SW Griffith Drive
P.O. Box 4755
Beaverton, OR 97076

City of Hillsboro
c/o City Manager
123 West Main, Room 250
Hillsboro, OR 97123

City of Forest Grove
c/o City Manager
P.O. Box 326
Forest Grove, OR 97116

Tualatin Valley Water District
c/o General Manager
1850 SW 170th Avenue
P.O. Box 745
Beaverton, OR 97075

7. The Parties agree that this Agreement may be expanded to include additional parties with the joint agreement of all parties to the agreement. Any amendment to this Agreement must be improved by the governing body of each body.

8. This Agreement shall be effective when signed by duly authorized representatives of the Parties.

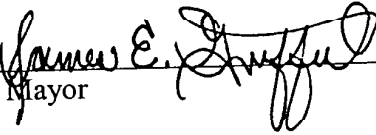
IN WITNESS WHEREOF, the Parties hereto have caused this Memorandum of Understanding to be executed by their respectively authorized officers or representatives as of the day and year first above written.

CITY OF TIGARD

JOINT WATER COMMISSION

By: _____

Mayor



By: _____

General Manager

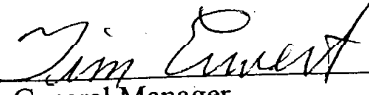


EXHIBIT B

AGREEMENT

This AGREEMENT, made and entered into this 1st day of July, 1982, by and between the TIGARD WATER DISTRICT, a municipal corporation of the State of Oregon, hereinafter called "TIGARD", and the CITY OF BEAVERTON, also a municipal corporation of the State of Oregon, hereinafter called "BEAVERTON".

WITNESSETH

Tigard and Beaverton are each municipal corporations and are engaged in the supply of water for domestic purposes to the residents in their respective areas. Tigard is organized under the provisions of ORS 264; Beaverton is organized in accordance with State law and its city charter.

Tigard and Beaverton have a 12-inch inter-tie at the common boundary, S.W. Scholls Ferry Road, near Springwood Drive. In the near future, another inter-tie will be made at the intersection of S.W. 135th and Scholls Ferry Road.

Both Tigard and Beaverton are desirous of purchasing surplus water from the other for emergency purposes. For such purposes, both entities are willing to sell surplus water to the other at either point of connection at the common boundaries noted above. Therefore, in consideration of the covenants and conditions contained herein, the parties agree as follows:

1. Tigard agrees to furnish and sell water to Beaverton under the terms and provisions of this Agreement delivered at either point of connection noted previously. The obligation on the part of Tigard to sell and furnish water is subject to the following limitations.

A. Under the provisions of ORS 264, Tigard can sell and furnish only surplus water and, should the demand of Tigard's customers at any time exceed Tigard's capacity to deliver water to them, it shall at that time have no obligation to furnish water to

11-2-82 AGREEMENT

Beaverton.

B. Tigard's sources of water are the City of Lake Oswego, Oregon; the City of Portland, Oregon; and deep wells located within the district. The Cities of Lake Oswego and Portland have promulgated rules and regulations concerning the supply and use of water, and it is mutually understood and agreed between the parties hereto that, insofar as said rules and regulations are applicable hereto, Beaverton shall be bound by same. Such rules and regulations are by this reference made a part of this Agreement.

2. Beaverton agrees to furnish and sell water to Tigard under the terms and provisions of this Agreement delivered at either point of connection noted previously. The obligation on the part of Beaverton to sell and furnish water is subject to the following limitations:

A. Beaverton is offering only surplus water to Tigard for emergency purposes and, should the demand of Beaverton's customers at any time exceed Beaverton's capacity to deliver water to them, it shall at that time have no obligation to furnish water to Tigard.

B. Beaverton's major source of water is the Upper Tualatin-Trask River system controlled and operated under the jurisdiction of the Joint Utilities Commission of Hillsboro, Forest Grove and Beaverton. The Joint Utilities Commission has promulgated rules and regulations concerning the supply, sale and use of water, and it is mutually understood and agreed between the parties hereto that, insofar as said rules and regulations are applicable hereto, Tigard shall be bound by same. Such rules and regulations are by this reference made a part of this Agreement.

3. Both Tigard and Beaverton shall pay to the other party for water purchased a sum of money equal to the basic unit cost per 100 cubic feet of Bull Run water delivered as determined by Portland Water Bureau in its fiscal year Rate Ordinance for Service Area III (pumped transmission). For example: the current charge for water service furnished by the City of Portland for Service Area III is 63 cents per 100 cubic feet. Water furnished by either party pursuant to the provisions of this Agreement would cost 63 cents

per 100 cubic feet. It is understood that any change in the rate made by the City of Portland for Service Area III, whether increased or decreased, shall work an appropriate increase or decrease in the rate and charges made hereunder. The parties agree that there shall be no stand-by charges or minimum charges.

Shall the water meter(s) fail to register accurately the quantity of water passing through it, the charges for water delivered during the period of inaccuracy shall be estimated and agreed to by both parties from data showing the average daily volume of water passing through the meter(s) when operating accurately.

This Agreement shall be for a term of ten (10) years ending on June 30, 1992, and may continue thereafter indefinitely until cancelled by either party upon giving to the other six (6) months prior written notice of this intention to cancel. This Agreement shall supercede all other agreements currently in effect.

IN WITNESS WHEREOF the parties hereto have caused these presents to be executed as of the day and year first above written.


TIGARD WATER DISTRICT

Date: 1-11-83

By: 

Chairman
Board of Commissioners

ATTEST:



Secretary
Board of Commissioners

CITY OF BEAVERTON, OREGON

Date: 12-21-82

By: 

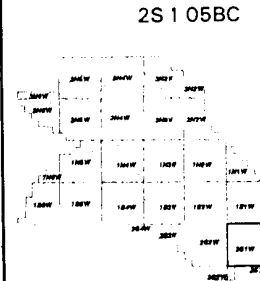
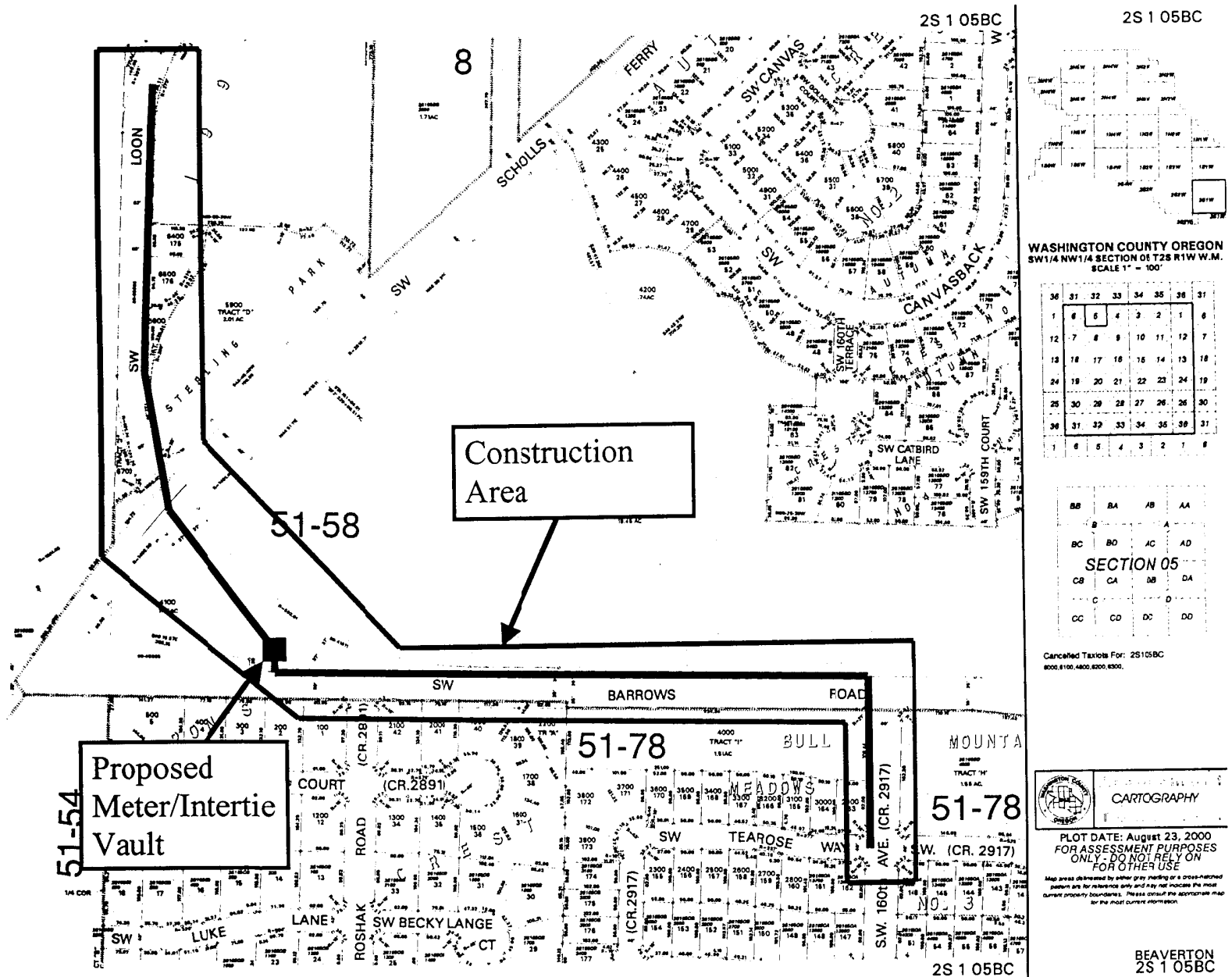
Mayor

ATTEST:



City Recorder
City of Beaverton

EXHIBIT C



WASHINGTON COUNTY OREGON
SW 1/4 NW 1/4 SECTION 05 T2S R1W W.M.
SCALE 1" = 100'

| | | | | | | | |
|----|----|----|----|----|----|----|----|
| 36 | 31 | 32 | 33 | 34 | 35 | 36 | 37 |
| 1 | 6 | 5 | 4 | 3 | 2 | 1 | 6 |
| 12 | 7 | 8 | 9 | 10 | 11 | 12 | 7 |
| 13 | 18 | 17 | 16 | 15 | 14 | 13 | 18 |
| 24 | 19 | 20 | 21 | 22 | 23 | 24 | 19 |
| 25 | 30 | 29 | 28 | 27 | 26 | 25 | 30 |
| 36 | 31 | 32 | 33 | 34 | 35 | 36 | 37 |
| 1 | 6 | 5 | 4 | 3 | 2 | 1 | 6 |

| | | | |
|----|----|----|----|
| BB | BA | JB | AA |
| BC | BO | AC | AD |
| CB | CA | DB | DA |
| CC | CD | DC | DD |

SECTION 05

Cancelled Taxlots For: 2S105BC
8000, 8100, 4800, 8200, 8300.



PLOT DATE: August 23, 2000
FOR ASSESSMENT PURPOSES
ONLY - DO NOT RELY ON
FOR OTHER USE

Map areas delineated by solid gray lines or a cross-hatched pattern are for reference only and may not indicate the most current property boundaries. Please consult the appropriate map for the most current information.

BEAVERTON
2S 1 05BC



EXHIBIT "D"

121 S.W. Salmon, Suite 900 ■ Portland, Oregon 97204-2920 ■ PHONE 503.225.9010 ■ FAX 503.225.9022

October 15, 2001

Mr. David Winship, PE, PLS, WRE
City of Beaverton
Engineering Department
P.O. Box 4755
Beaverton, Oregon 97076-4755

Re: Proposal for Engineering Services for Beaverton and Tigard Intertie –
SW Barrows Road Piping Improvements

Dear David:

Please find attached our proposal for the above referenced project. As discussed, our Fiscal Year 2000/2001 – Water Works Improvements – Unit 1 service agreement includes the City of Beaverton's portion of efforts for the design of a meter and pressure reducing valve (PRV) vault to facilitate an additional water system intertie with the City of Tigard. This proposal addresses the engineering services necessary for the completion of the City of Tigard's portion of the joint project. These proposed intertie piping improvements would connect the vault to the City of Tigard's distribution system. This proposal will allow both the vault and piping improvements to be incorporated into a single contract document. It is understood that the City of Beaverton will prepare an Intergovernmental Agreement (IGA) for execution with the City of Tigard regarding the costs of design, construction and ownership of the proposed intertie piping improvements.

Attached to the scope of work are our Labor Hour and Fee Summary and proposed schedule. We will accomplish this work on a time and expenses basis according to the Schedule of Charges as included in our current Retainer Agreement with the City that is also attached. This authorized work will be completed for the not to exceed total amount of \$44,704 for all tasks identified in the attached revised scope of work, which includes a \$3,500 contingency. It is our understanding that the City will prepare a contract for personal services once City Council approval is obtained.

Mr. David Winship, PE, PLS, WRE

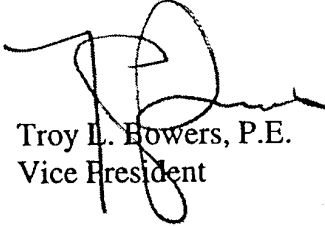
October 15, 2001

Page 2

Again, we look forward to completing this important work on behalf of the City. We also look forward to continued work with you, Beaverton staff and the City of Tigard. If you have any questions, please do not hesitate to call. Thank you.

Sincerely,

MURRAY, SMITH & ASSOCIATES, INC.

A handwritten signature in black ink, appearing to read 'Troy L. Bowers', with a stylized flourish at the end.

Troy L. Bowers, P.E.
Vice President

Enclosures

Cc: Dennis Koellermeier, City of Tigard

JSJ:kgs

**SCOPE OF WORK
CITY OF BEAVERTON
ENGINEERING SERVICES FOR
BEAVERTON AND TIGARD INTERTIE SW BARROWS ROAD PIPING
IMPROVEMENTS
October 15, 2001**

This scope of work is for services related to the design and construction of the intertie piping between a proposed City of Beaverton's meter and pressure reducing valve (PRV) vault and the City of Tigard's water distribution system. Combined with the City's proposed meter and PRV vault project, the proposed intertie piping improvements will complete a proposed new water system connection between the Cities of Beaverton and Tigard. The background of the proposed intertie and project description is presented below followed by the proposed scope of services.

Project Background and Description

During the winter of 1999, the City of Tigard had an emergency water supply condition in which the Tigard's primary sources of water supply, the City of Portland and the City of Lake Oswego, were both unavailable to supply water to the City. The City of Portland was unable to provide supply due to high turbidity in Bull Run watershed. The City of Lake Oswego was unable to provide supply because the connection to the City of Tigard was out of service due to construction of improvements to that connection. The City of Beaverton was able to supply Tigard in this emergency situation through two existing metered interties at SW 135th Avenue and SW Scholls Ferry Road and at SW Springwood Drive and SW Scholls Ferry Road.

Subsequent to the 1999 emergency water supply condition, hydraulic analyses were conducted to evaluate the existing interties and to develop a potential new intertie site. From these analyses, it was recommended that a new intertie connection be constructed near the intersection of SW Scholls Ferry Road and SW Barrows Road that will connect Beaverton's 550-foot pressure zone to Tigard's 410-foot pressure zone. The hydraulic analysis also recommended that the pipeline size be 16-inches in diameter. The proposed intertie will be capable of providing higher flows than the existing connections and will facilitate potential long-term supply scenarios.

The City will design and construct the intertie connection piping between Beaverton and Tigard's distribution system on behalf of the City of Tigard and as authorized by an Intergovernmental Agreement between the two cities. The City of Tigard will reimburse the City of Beaverton for the design and construction of piping improvements as described below. The City of Beaverton is currently designing the combined meter and pressure reducing valve (PRV) vault along with the piping on the Beaverton side of the connection. The intertie piping improvements and the meter and PRV vault work will be separate bid

schedules within a single, combined bid package with the project being administered by the City of Beaverton.

The intertie connection piping will consist of approximately 1,350 feet of 16-inch diameter ductile iron pipe. The pipe alignment will run along SW Barrows between SW Roshak Road and SW 160th Avenue for approximately 1,150 feet, turning south on 160th Avenue for approximately 200 feet to SW Bulrush Lane where it will connect to the City of Tigard's system.

Scope of Services

The scope of services for the contemplated work is presented below.

Task 1 - Assess Existing Conditions

- A. Collect and analyze construction records, system mapping and system schematics of City water system and other utilities along SW Barrows Road and SW 160th Avenue.
- B. Receive topographic design survey of site as completed in Task 2 as needed to verify existing bounds, topography, features and location of improvements.
- C. Perform potholing utilizing vacuum excavation techniques to verify underground utilities in order to avoid conflicts. It is anticipated that up to six holes will be excavated.
- D. Develop complete site map of existing right-of-way pavement, landscaping features and utilities for use in designing the intertie piping improvements.

Task 2 – Design Survey

Work under this task includes the completion of a design survey to be used for developing base mapping needed for project design efforts. Services under this task include integrating the survey with base mapping previously developed for the meter/PRV vault design by the City.

Task 3 - Plans, Specifications and Estimates

- A. Prepare plans and specifications for the intertie piping improvements and incorporate with the previously identified meter and PRV contract documents. It is anticipated that the plans, separate of the meter and PRV vault portion of the project, will consist of a title page, general reference page, 3 plan and profile sheets, and 2 detail sheets, for 7 sheets total. Plan and profile sheets will be drawn at a horizontal scale of 1" = 20'.

- B. Obtain City and County street opening permits. It is noted that SW Barrows Road is a Washington County Road and, as such, a County permit will be required within SW Barrows Road right-of-way. Any fees or bonds to be provided by the City.
- C. Complete land use pre-application process including meeting with Beaverton City staff to determine permitting requirements for completing piping placement.
- D. Prepare a construction cost estimate for the work designed under this task.
- E. Incorporate the work designed under this task into the meter and PRV vault draft contract document package suitable for bidding and submit 5 additional sets to the Cities of Tigard and Beaverton for review. Revise as requested.
- F. Print and bind up to 35 total copies of the final contract documents and deliver to Cities. It is understood that this task will be shared with the corresponding printing task for the meter and PRV vault portion of the project.
- G. Print 5 additional copies of full size plans and deliver to the Cities of Tigard and Beaverton for their use.

Task 4 - Bidding and Award

Assist the City as requested. Respond to bidder inquiries during the bid period. Attend mandatory pre-bid meeting. Review Contractor qualifications. Prepare addenda as needed. Review bid results and make a contract award recommendation.

Task 5 - Services During Construction

Under this task, limited scope services will be performed during construction. It is assumed that the City will perform the contract administration work and MSA will provide the support to City staff as requested. The scope of these services as they apply to the Tigard work is proposed to be as follows:

- A. Coordinate preconstruction conference and prepare Notice to Proceed.
- B. Review and approve submittals required of the Contractor.
- C. Review construction surveying completed by the City of Beaverton.

- D. Perform periodic site visits to review the work. It is anticipated that up to 18 labor hours will be provided for this construction observation work. Prepare inspection reports documenting visits and observations. Submit to City.
- E. Review Contractor's monthly progress payment request as they apply to Tigard work with City staff. Prepare and submit Tigard's portion of the monthly progress payment report to the City of Beaverton.
- F. Conduct final inspection of the work and make recommendation to the City for final payment.
- G. Complete drawings of record. Provide one full size set of reproducible mylar drawings and one electronic copy.

LABOR HOUR AND FEE SUMMARY (Revised 10/15/01)
CITY OF BEAVERTON
ENGINEERING SERVICES FOR
BEAVERTON AND TIGARD INTERTIE - SW BARROWS ROAD PIPING IMPROVEMENTS

| TASK | LABOR CLASSIFICATION (HOURS) | | | | | | | | | ESTIMATED FEES | | |
|--|------------------------------|-----------|-----------------|-------------|------------|--------------|-------|----------|------------|------------------|------------------|------------------|
| | Senior Principal | Associate | Senior Engineer | Engineer II | Engineer I | Senior Tech. | Tech. | Clerical | Total | Labor | Expenses | Total |
| Task 1 - Assess Existing Conditions | | 1 | 3 | 5 | 10 | 2 | 32 | 2 | 55 | \$ 3,740 | \$ 3,062 | \$ 6,802 |
| Task 2 - Design Surveys | | | 2 | 2 | 4 | | | 2 | 10 | \$ 692 | \$ 3,000 | \$ 3,692 |
| Task 3 - Plans, Specifications and Estimates | 2 | 8 | 28 | 40 | 50 | 4 | 112 | 12 | 256 | \$ 18,108 | \$ 1,350 | \$ 19,458 |
| Task 4 - Bidding and Award | | | 5 | 8 | 4 | | | 5 | 22 | \$ 1,544 | \$ 78 | \$ 1,622 |
| Task 5 - Services During Construction | | 2 | 12 | 37 | 30 | | 12 | 8 | 101 | \$ 7,110 | \$ 2,520 | \$ 9,630 |
| Contingency | | | | | | | | | | \$ - | \$ 3,500 | \$ 3,500 |
| TOTAL - ALL TASKS | | | | | | | | | 444 | \$ 31,194 | \$ 13,510 | \$ 44,704 |



2000 SCHEDULE OF CHARGES

Personnel:

| | |
|-------------------|----------|
| Senior Principal | \$123.00 |
| Principal | 113.00 |
| Associate | 103.00 |
| Senior Engineer | 98.00 |
| Engineer V | 89.00 |
| Engineer IV | 84.00 |
| Engineer III | 78.00 |
| Engineer II | 74.00 |
| Engineer I | 66.00 |
| Senior Technician | 75.00 |
| Technician | 62.00 |
| Junior Technician | 48.00 |
| Administrator | 55.00 |
| Clerical | 44.00 |

Project Expenses:

Expenses incurred in-house which are directly attributable to the project will be invoiced at actual cost. These expenses include the following:

| | |
|---|------------|
| Computer Aided Design and Drafting System | \$10.00/hr |
| Mileage | 0.35/mile |
| Long Distance Telephone | At Cost |
| Lodging and Subsistence | At Cost |
| Postage | At Cost |
| Printing and Reproduction | At Cost |

Outside Services:

Outside technical, professional and other services will be invoiced at actual cost plus 10 percent to cover administration and overhead.

RETAINER AGREEMENT

This is an agreement between the City of Beaverton, an Oregon municipal corporation, PO Box 4755, Beaverton OR 97076-4755 and **MURRAY, SMITH & ASSOCIATES, INC.** by which Consultant for a certain duration to be available to City on City's request to perform **UTILITY INFRASTRUCTURE IMPROVEMENT SERVICES** work with the personnel and for the fees described in Consultant's proposal attached as Exhibit A to this Retainer Agreement.

1. **Term.** Consultant agrees to make the personnel described in Exhibit A (or replacement personnel with equivalent qualifications satisfactory to City) available to perform the services described at the fees listed in that Exhibit upon notice by City if notice is delivered to Consultant at any time on or before **JUNE 30, 2002**.
2. **Scope of Work; Compensation.** The scope of the work to be performed by Consultant, the schedule for performing such work and the total compensation to be paid by City for the work shall be mutually agreed between City and Consultant following City's notice; provided, that if the parties have not mutually agreed to those terms and reduced them to writing within 30 days of City's notice, both parties' rights and obligations under this Retainer Agreement shall terminate. No compensation is due either party in consideration of this Retainer Agreement.
3. **Insurance.** Consultant agrees that no work for City shall commence until Consultant has provided proof satisfactory to the City of Commercial General Liability and Automobile Liability insurance with limits no less than \$1,000,000 per occurrence; workers' compensation and employer's liability insurance as required by state law; professional liability insurance appropriate for the consultant's profession and the type and size of job. The City, its officers, officials, agents, volunteers, and employees shall be covered as additional insured on the general liability and automobile liability policies. Consultants shall furnish the City with certificates and original endorsements effecting this coverage when signing the City's Personal Services Contract. Each policy required by the contract shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty days prior written notice by certified mail, return receipt requested, has been given to the City.
4. **Indemnity and Hold Harmless.** Consultant shall agree to indemnify, defend and hold the City, its officers, officials, boards, commissions, employees, volunteers, and agents harmless from and against all claims, damages, suits, costs, judgments, losses, and expenses including legal fees, attributable to a negligent act, error or omission of Consultant in its performance of the professional services for the City.
5. **Modifications.** Modifications of this Retainer Agreement shall not be effective unless reduced to writing and signed by both parties.

CITY OF BEAVERTON, OREGON

BY: _____

TITLE: _____

DATE: _____

APPROVED AS TO FORM _____

City Attorney

MURRAY, SMITH & ASSOCIATES, INC.

BY: _____

TITLE: _____

DATE: _____

EXHIBIT E

Water Intertie Pipeline and Master Meter Intergovernmental Agreement Between the City of Beaverton and the City of Tigard

Funding Plan

| City | Type of Cost | Beaverton Budget Account | Cost Obligation | FY 01-02 Appropriation Required |
|-----------|--------------|--------------------------|------------------|---------------------------------|
| Tigard | Engineering | 505-75-3620-683 (1) | \$44,074 | \$47,048 |
| | Construction | 505-75-3620-682 (1) | \$177,474 | \$174,500 |
| Beaverton | Engineering | 505-75-3620-683 (1) | \$21,500 | \$21,500 |
| | Construction | 505-75-3620-682 (1) | <u>\$236,000</u> | <u>\$136,000</u> |
| | Total | | \$479,048 | \$379,048 |

(1) Source of funding is the Water Construction Fund, Program: Water Extra-Capacity Supply System, New Interconnection /Meter to City of Tigard. Total budgeted for FY 01-02 in 505-75-3620 for this project is \$100,000.

| City | Type of Cost | Cost Obligation |
|-----------|-----------------|------------------|
| Tigard | Engineering | \$44,074 |
| | Construction | <u>\$177,474</u> |
| | Subtotal | \$221,548 |
| Beaverton | Engineering | \$21,500 |
| | Construction | <u>\$236,000</u> |
| | Subtotal | \$257,500 |

AGENDA ITEM # _____
FOR AGENDA OF December 11, 2001

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Ordinance Amending Chapter 14.04 of the Tigard Municipal Code

PREPARED BY: Gary Lampella DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

An Ordinance amending Chapter 14.04 - Building Code, of the Tigard Municipal Code to reflect re-numbering of various Oregon Revised Statutes and Oregon Administrative Rule. Other amendments are the result of past building code changes and unnecessary language in the TMC.

STAFF RECOMMENDATION

Approve the Ordinance as shown in "Attachment 1."

INFORMATION SUMMARY

From time to time, new ORS and OAR sections are added and deleted as a result of an Oregon Legislative Session. This causes any reference to these laws to conflict with references found in the TMC. Staff has reviewed Chapter 14.04 of the TMC and made changes where there was a conflict. Additionally, various sections of the specialty codes are amended every three years and Section 14.04.030 (a) (4) and (5) have been deleted due to the adoption of Hazardous Process Piping in the mechanical code on October 1, 1999. Section 14.04.030 (b) has been amended to omit the requirement for the City Recorder to maintain copies of all the State adopted specialty codes. The Building Division as well as the Library have copies of these codes that are available to the public upon request. Section 14.04.060 is being deleted in its entirety. The code specifically exempts Group R, Division 3 and U Occupancies from this requirement (single-family dwellings and garages). The Building Division staff issue hand written Residential Certificates of Occupancy at the time of the final approved inspection.

OTHER ALTERNATIVES CONSIDERED

N/A

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

ATTACHMENT LIST

Ordinance amending Chapter 14.04 of the Tigard Municipal Code.

FISCAL NOTES

N/A

CITY OF TIGARD, OREGON

ORDINANCE NO. 01-

AN ORDINANCE AMENDING CHAPTER 14.04 OF THE TIGARD MUNICIPAL CODE

WHEREAS, VARIOUS OREGON REVISED STATUTES AND OREGON ADMINISTRATIVE RULES HAVE BEEN AMENDED AND RE-NUMBERED, AND;

WHEREAS, SECTION 14.04.030 (A) (4) AND (5) OF THE TMC HAVE BEEN DELETED DUE TO THE ADOPTION OF HAZARDOUS PROCESS PIPING IN THE MECHANICAL CODE BY THE STATE OF OREGON, AND;

WHEREAS, SECTION 14.04.030 (B) HAS BEEN AMENDED TO OMIT THE REQUIREMENT FOR THE CITY RECORDER TO MAINTAIN COPIES OF ALL THE STATE ADOPTED SPECIALTY CODES, AND;

WHEREAS, SECTION 14.04.060 OF THE TMC IS BEING DELETED IN ITS ENTIRETY.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: CHAPTER 14.04 BUILDING CODE OF THE TMC IS BEING AMENDED AS SHOWN ON EXHIBIT A.

SECTION : This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By _____ vote of all Council members present after being read by number and title only, this _____ day of _____, 2001.

Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this _____ day of _____, 2001.

James E. Griffith, Mayor

Approved as to form:

City Attorney

Date

TIGARD MUNICIPAL CODE

~~Strikeouts~~ are deleted language and **bold underline** is new language.

Chapter 14.04 BUILDING CODE

Sections:

- 14.04.010 Title.**
- 14.04.020 Definitions.**
- 14.04.030 State codes adopted.**
- 14.04.040 Administration.**
- 14.04.050 Uniform Building Code--
Appendix 11 adopted--
Agricultural buildings.
(Repealed by Ord. 96-10).**
- 14.04.60 Structural Specialty Code--
Section 308 amended--
Occupancy.
(Repealed by Ord. 01-**
- 14.04.065 Electrical Program
Administration.**
- 14.04.070 Occupancy restriction
recording.**
- 14.04.090 Violation--Penalty--Remedies.**

14.04.010 Title.

This chapter shall be known as the building code ordinance and may also be referred to as "this chapter," or the "building code." (Ord. 86-53 §2(Exhibit A §1), 1986)

14.04.020 Definitions.

For the purpose of Sections 14.04.010 through 14.04.090, the following terms shall mean:

(1) Building Official. "Building official" means the designee or designees appointed by the director of community development who is responsible for building inspections and enforcement of the building code.

(2) State Building Code. "State

building code" means the combined specialty codes as listed in Section 14.04.030. (Ord. 86-53 §2(Exhibit A §2), 1986)

14.04.030 State codes adopted.

(a) Except as otherwise provided in this chapter, the following codes, standards and rules are adopted and shall be in force and effect as part of this municipal code:

(1) Under the authority of ~~ORS 455.153~~ **ORS 455.150** (effective 9/5/95), Tigard administers those specialty codes and building requirements adopted by the state which Tigard is granted authority to administer, including: the Structural, Mechanical, Plumbing, Electrical and One and Two Family Dwelling Specialty Codes; mobile or manufactured dwelling parks requirements; temporary parks requirements; manufactured dwelling installation, support and tiedown requirements and park or camp requirements (as listed in ORS 455.153).

(2) Appendix Chapter A33 of the 1997 Uniform Building Code, as published by the International Conference of Building Officials, regarding Excavation and Grading, including the recognized standards for Appendix Chapter 33 listed in Part IV of Chapter 35 of the 1997 Uniform Building Code;

(3) Section 104.2.6 of the 1997 Uniform Building Code, as published by the International Conference of Building Officials, regarding Liability;

~~(4) Appendix Chapter 14 of the 1994 Uniform Mechanical Code, as published by the International Conference of Building Officials, regarding Process Piping, except as modified in Title 14, Section 14.04.030, paragraph (a), subparagraph (5);~~

~~(5) Section 1401 of~~

TIGARD MUNICIPAL CODE

~~Appendix Chapter 14 of the 1994 Uniform Mechanical Code, as published by the International Conference of Building Officials, regarding Process Piping is modified to read as follows: The regulations in this chapter shall govern the installation of hazardous process piping in or in conjunction with a building or structure or located upon the premises;~~

(b) At least one copy of each of these specialty codes shall kept by the building official ~~the city recorder~~ and the Tigard Public Library, and shall be available for inspection upon request. (Ord. 99-04; Ord. 96-10; Ord. 93-04 §1, 1993: Ord. 90-14 §1, 1990).

14.04.040 Administration.

(a) The city shall provide a program of building code administration, including plan review, permit issuing and inspection for structural, electrical, mechanical and plumbing work. The program shall be administered by the building official, under the supervision of the community development director. The program shall operate pursuant to the state specialty codes listed in Section 14.04.030 and the remainder of this chapter.

(b) Administration and enforcement of Appendix Chapter 33, Excavation and Grading, as adopted by Section 14.04.030 (a) (2), shall be by the building official and city engineer. Where the term "Building Official" is used in Appendix Chapter 33, it shall mean either the building official or city engineer.

(c) Fees for permits and other related services pursuant to the building code administration program shall be established by resolution of the City Council. (Ord. 99-08; Ord. 96-10; Ord. 95-16; Ord. 93-04 §2, 1993: Ord. 86-53 §2(Exhibit A §4), 1986).

14.04.050 Uniform Building Code--

**Appendix 11 adopted--
Agricultural buildings.
(Repealed by Ord. 96-10).**

~~14.04.060 Structural Specialty Code-- Section 308 amended-- Occupaney.~~

~~Section 109.1 of the Structural Specialty Code more fully described in Section 14.04.030 (a) (1) of this chapter is amended to eliminate the following language:~~

~~"EXCEPTION: Group R, Division 3 and Group U Occupancies."~~

~~The remainder of Section 109.1 is adopted in full. (Ord. 96-10; Ord. 93-04 §4, 1993: Ord. 86-53 §2(Exhibit A §6), 1986).~~

14.04.065 Electrical Program Administration.

(a) Permit Required - Except as permitted by ~~OAR 918-260-190(3)~~ **OAR 918-261-0000 through 0035** - electrical work exempt from permit, subsection (o) of this section for minor installations, subsection (p) of this section for temporary electrical permits and subsection (q) of this section for industrial plant electrical permits, no electrical work shall be performed unless a separate electrical permit for each separate building or structure has first been obtained from the building official.

(b) Expiration of Permits - Permits shall expire pursuant to ~~OAR 918-260-270(9)~~ **OAR 918-309-0000 (6)**.

(c) Validity of Permit - The issuance of a permit or approval of plans, specifications and computations shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of other ordinances of the jurisdiction. Permits presuming

TIGARD MUNICIPAL CODE

to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid.

The issuance of a permit based upon plans, specifications, computations and other data shall not prevent the building official from thereafter requiring the correction of errors in said plans, specifications, and other data or from preventing building operations being carried on thereunder when in violation of this code or of other ordinances of this jurisdiction.

(d) Revocation of Permits - The building official may, in writing, suspend or revoke a permit issued under the provisions of this chapter whenever the permit is issued in error or on the basis of incorrect information supplied or in violation of other ordinances or regulation of the jurisdiction.

(e) Plan Review Requirements - Electrical plan reviews shall be required. Plan review requirements and procedures shall be as stipulated in ~~OAR 918-320-300 through 340~~ **OAR 918-311-0000 through 0060.**

(f) Expiration of Plan Review - Applications for which no permit is issued within 180 days following the date of application shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the building official. The building official may extend the time for action by the applicant for a period not exceeding 180 days upon request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No application shall be extended more than once. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

(g) Permit Fees - Fees for electrical permits shall be established by resolution of the

City Council.

(h) Investigation Fees: Work without a Permit.

1. Investigation. Whenever any work for which a permit is required by this code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work.

2. Fee. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee that would be required by this code if a permit were to be issued. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law.

(i) Fee Refunds.

1. The building official may ~~authorize~~ **authorize** the refunding of any fee paid hereunder which was erroneously paid or collected.

2. The building official may authorize refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.

3. The building official may authorize refunding of not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The building official shall not authorize refunding of any fee paid except upon written application filed by the original permittee

TIGARD MUNICIPAL CODE

not later than 180 days after the date of fee payment.

(j) **Right of Entry.** When it is necessary to make an inspection to enforce the provisions of this section or when the building official has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this section which makes the building or premises unsafe, dangerous or hazardous, the building official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this section provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

(k) **Corrections and Stop Orders.** When any work is being done contrary to the provisions of this section, the building official may order the work corrected or stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and such persons shall forthwith make the necessary corrections or stop work until authorized by the building official to proceed with the work.

(l) **Authority to Disconnect Utilities in Emergencies.** The building official or the building official's authorized representative shall have the authority to disconnect electrical service to a building, structure, premises or equipment regulated by this section in case of emergency where necessary to eliminate an immediate hazard to life or property. The building official shall, whenever possible, notify the serving utility, the owner and occupant of the building, structure or premises of the decision to disconnect prior to taking such action, and shall notify such serving

utility, owner and occupant of the building, structure or premises in writing of such disconnection immediately thereafter.

(m) **Authority to Condemn Equipment.** When the building official ascertains that any equipment, or portion thereof, regulated by this section has become hazardous to life, health or property, the building official shall order in writing that the equipment either be removed or restored to a safe or sanitary condition, as appropriate. The written notice shall contain a fixed time limit for compliance with such order. Persons shall not use or maintain defective equipment after receiving a notice.

When equipment or an installation is to be disconnected, written notice of the disconnection and causes therefor shall be given within 24 hours to the serving utility, the owner and occupant of the building, structure or premises. When any equipment is maintained in violation of this section, and in violation of a notice issued pursuant to the provisions of this section, the building official shall institute an appropriate action to prevent, restrain, correct or abate the violation.

(n) **Connection after Order to Disconnect.** Persons shall not make connections from an electrical service nor supply electrical power to any equipment regulated by this section which has been disconnected or ordered to be disconnected by the building official or the use of which has been ordered to be discontinued by the building official until the proper permits have been obtained, inspections approved, and the building official authorizes the reconnection and use of such equipment.

(o) **Minor Installation Labels - Rules** for the use, issuance, and inspection of minor installation labels shall be as stipulated in ~~OAR 918-310-010 through 080~~ **OAR 918-050-0500 through 0520.**

TIGARD MUNICIPAL CODE

(p) Temporary Electrical Permits - Rules for the use of temporary electrical permits shall be as stipulated in ~~OAR 918-260-265~~ **OAR 918-309-0080**.

(q) Industrial Plant Electrical Permits and Inspection -Rules for the use of industrial plant electrical permits and inspections shall be as stipulated in ~~OAR 918-260-350~~ **OAR 918-309-0100**. (Ord. 95-16)

14.04.070 Occupancy restriction recordation.

An applicant for a building permit for new construction, as a condition for the issuance of the permit, may be required to execute, notarize and deliver to the city a recordable occupancy restriction in the form of Exhibit A-1, attached to the ordinance codified in this chapter. This requirement shall be at the discretion of the building official and the community development director. Upon receipt of the occupancy restriction, the building official shall record it in the deed records of Washington County. The recording fees shall be charged to the applicant. When the conditions in the occupancy restriction have been satisfied, the restriction shall be released and the occupancy certificate shall be issued. (Ord. 86-53 §2(Exhibit A §7), 1986).

14.04.090 Violation--Penalty--Remedies.

(a) No person shall erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, occupy or maintain a building or structure in the city, or cause the same to be done contrary to or in violation of this chapter.

(b) No person shall install, alter, replace, improve, convert, equip or maintain any mechanical equipment or system in the city, or

cause the same to be done contrary to or in violation to this chapter.

(c) No person shall install, alter, replace, improve, convert, equip or maintain any plumbing or drainage piping work or any fixture or water heating or treating equipment in the city, or cause the same to be done contrary to or in violation of this chapter.

(d) No person shall install, alter, replace, improve, convert, equip or maintain any electrical equipment or system in the city, or cause the same to be done contrary to or in violation of this chapter.

(e) Violation of a provision of this chapter constitutes a Class I civil infraction and shall be processed in accordance with the procedures set forth in the civil infractions ordinance, codified in Chapter 1.16 of this code.

(f) Each day that a violation of a provision of this chapter exists constitutes a separate violation.

(g) Notwithstanding the other remedies in this chapter, if the building official determines that any building under construction, mechanical work, electrical work, or plumbing work on any building or any structure poses an immediate threat to the public health, safety or welfare, he may order the work halted and the building or structure vacated pending further action by the city and its legal counsel.

(h) The penalties and remedies provided in this section are not exclusive and are in addition to other penalties and remedies available under city ordinance or state statute. (Ord. 95-16; 90-08 §4, 1990). ■

AGENDA ITEM # _____
FOR AGENDA OF December 11, 2001

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Revisions to Tigard Municipal Code Chapter 13.09, Reimbursement Districts

PREPARED BY: G N Berry DEPT HEAD OK A P Duenas CITY MGR OK W A Monahan

ISSUE BEFORE THE COUNCIL

Shall the City Council approve proposed revisions to Tigard Municipal Code Chapter 13.09?

STAFF RECOMMENDATION

That City Council approve the attached Ordinance adopting the proposed revisions to Tigard Municipal Code Chapter 13.09.

INFORMATION SUMMARY

Chapter 13.09 Reimbursement Districts, (attached) enables the City to recover the cost of constructing local public sewers by charging each owner within the district a reimbursement fee when the owner connects to the sewer. In addition, the owner must also pay a system development charge (connection fee) of \$2,300 plus \$35 for inspection at the time of connection. By statute, system development charges may only be used for certain capacity improvements such as increasing the capacity of the treatment plant and constructing the large sewer lines leading to the plant.

On September 25, 2001, City Council approved revisions that allow the City to recover its cost of administering reimbursement districts and authorized purchasing an easement from an owner within a proposed district.

This proposed revision is as recommended in the attached letter from the City Attorney's office. The purpose of the proposed revision is to clarify that the reimbursement fee is not a system development charge.

These revisions are included in the attached proposed Ordinance amending Chapter 13.09.

OTHER ALTERNATIVES CONSIDERED

None

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

ATTACHMENT LIST

Tigard Municipal Code Chapter 13.09, Reimbursement Districts
Proposed Ordinance
Memorandum from the City Attorney's office dated November 15, 2001

FISCAL NOTES

Reimbursement districts are funded through the Neighborhood Sewer Extension Program in the annual Capital Improvement Program. For FY 2001-02, the amount allocated for the formation of districts is \$2,000,000.

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CITY OF TIGARD, OREGON

ORDINANCE NO. 01-

AN ORDINANCE AMENDING CHAPTER 13.09, REIMBURSEMENT DISTRICTS, OF THE TIGARD MUNICIPAL CODE.

WHEREAS, the City Council finds that Chapter 13.09 of the Tigard Municipal Code should be updated;

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Paragraph 13.09.120 (3) is amended to read as follows:

(3) ~~The reimbursement fee is not intended to replace or limit, and is in addition to, any other existing fees or charges collected by the City. The reimbursement fee is in lieu of a local improvement district charge for the improvements installed pursuant to the reimbursement district agreement. The reimbursement fee is not intended to replace or limit any other fee or charge collected by the city.~~

SECTION 2: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By _____ vote of all Council members present after being read by number and title only, this _____ day of _____, 2001.

Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this _____ day of _____, 2001.

James E. Griffith, Mayor

Approved as to form:

City Attorney

Date

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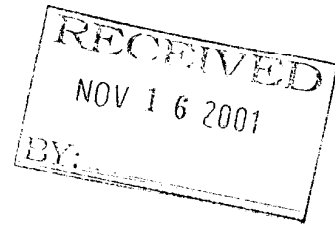
RAMIS
CREW
CORRIGAN &
BACHRACH, LLP

Practicing as
Hibbard Caldwell Schultz
Ramis & Crew
in Oregon City

ATTORNEYS AT LAW

1727 N.W. Hoyt Street
Portland, Oregon 97209

(503) 222-4402
Fax: (503) 243-2944



MEMORANDUM

TO: William A Monahan, City Manager, City of Tigard
Jim Hendryx, Community Development Director
Gus Dueñas, City Engineer

FROM: Timothy V. Ramis, Gary Firestone, City Attorney's Office

DATE: November 15, 2001

RE: Reimbursement District Code Provisions

The City's reimbursement district code provisions are intended to set up reimbursement districts as an alternative to local improvements. As a charge in lieu of a local improvement assessment, the reimbursement payment under the reimbursement district code provisions is not considered a systems development charge and therefore not subject to the procedural rules applicable to SDCs. ORS 223.299.

At a recent seminar, we heard an attorney refer to a reimbursement district payment as an SDC. We reviewed the City's code to determine whether the City's reimbursement district payment is properly considered to be a charge in lieu of a local improvement district charge and therefore not an SDC. Although we conclude that the code is defensible as written, it could and should be clarified. TMC 13.09.120(3) provides: "The reimbursement fee is not intended to replace or limit, and is in addition to, any other fees or charges collected by the city." We recommend that this provision be amended to read:

- (3) ~~B~~. The reimbursement fee is in lieu of a local improvement district charge for the improvements installed pursuant to the reimbursement district agreement. The reimbursement fee is not intended to replace or limit any other fee or charge collected by the city.

TIGARD MUNICIPAL CODE

Chapter 13.09 REIMBURSEMENT DISTRICTS

Sections:

- 13.09.010 Definitions
- 13.09.020 Application for a
Reimbursement District
- 13.09.030 City Engineer's Report
- 13.09.040 Amount to be Reimbursed
- 13.09.050 Public Hearing
- 13.09.060 Notice of Public Hearing
- 13.09.070 City Council Action
- 13.09.080 Notice of Adoption of
Resolution
- 13.09.090 Recording the Resolution
- 13.09.100 Contesting the Reimbursement
District
- 13.09.105 Final Public Hearing
- 13.09.110 Obligation to Pay
Reimbursement Fee
- 13.09.115 Annual Fee Adjustment
- 13.09.120 Administration

13.09.010 Definitions

(1) "City Engineer" or "Engineer" means the person holding the position of City Engineer or any officer or employee designated by that person to perform duties stated within this chapter.

(2) "City" means the City of Tigard.

(3) "Person" means a natural person, the person's heirs, executors, administrators, or assigns; a firm, partnership, corporation, association or legal entity, its or their successors or assigns; and any agent employee or any representative thereof.

(4) "Applicant" means a person, as defined in subsection (3), who is required or chooses to finance some or all of the cost of a street, water or sewer improvement which is available to provide

service to property, other than property owned by the person, and who applies to the City for reimbursement for the expense of the improvement. The "applicant" may be the City.

(5) "Street Improvement" means a street or street improvement conforming with standards in the Tigard Community Development Code and including but not limited to streets, storm drains, curbs, gutters, sidewalks, bike paths, traffic control devices, street trees, lights and signs and public right-of-way.

(6) "Water Improvement" means a water or water line improvement conforming with standards in the Tigard Community Development Code and including but not limited to extending a water line to property, other than property owned by the applicant, so that water service can be provided for such other property without further extension of the line.

(7) "Sewer Improvement" means a sewer or sewer line improvement conforming with standards in the Tigard Community Development Code and including but not limited to extending a sewer line to property, other than property owned by the applicant, so that sewer service can be provided for such other property without further extension of the line.

(8) "Reimbursement District" means the area which is determined by the City Council to derive a benefit from the construction of street, water or sewer improvements, financed in whole or in part by the applicant and includes property which has the opportunity to utilize such an improvement.

(9) "Reimbursement Fee" means the fee required to be paid by a resolution of the City Council and the reimbursement agreement. (Ord. 96-13; Ord. 94-10)

TIGARD MUNICIPAL CODE

13.09.020 **Application for a Reimbursement District**

(1) Any person who is required to or chooses to finance some or all of the cost of a street, water or sewer improvement which is available to provide service to property, other than property owned by the person, may, by written application filed with the City Engineer, request that the City establish a reimbursement district. The street, water and sewer improvements must include improvements in addition to or in a size greater than those which would otherwise ordinarily be required in connection with an application for permit approval and must be available to provide service to property other than property owned by the applicant. Examples include but shall not be limited to full street improvements instead of half street improvements, off site sidewalks, connection of street sections for continuity, extension of water lines and extension of sewer lines. The City may also initiate formation of a reimbursement district. The application shall be accompanied by a fee, as established by resolution, sufficient to cover the cost of administrative review and notice pursuant to this Chapter.

(2) The application shall include the following:

(a) A description of the location, type, size and cost of the public improvement to be eligible for reimbursement.

(b) A map showing the properties to be included in the proposed reimbursement district; the zoning district for the properties; the front footage or square footage of said properties, or similar data necessary for calculating the apportionment of the cost; and the property or properties owned by the applicant.

(c) The estimated cost of the improvements as evidenced by bids, projections

of the cost of labor and materials, or other evidence satisfactory to the City Engineer.

(d) The estimated date of completion of the public improvements.

(e) Applicant may request a discretionary annual fee adjustment, which, if granted, will be administered pursuant to Section 13.09.115. (Ord. 96-13; Ord. 94-10)

13.09.030 **City Engineer's Report**

The City Engineer shall review the application for the establishment of a reimbursement district and evaluate whether a district should be established. The Engineer may require the submittal of other relevant information from the applicant in order to assist in the evaluation. The Engineer shall prepare a written report for the City Council, considering and making recommendations concerning the following factors:

(a) Whether the applicant will finance some or all of the cost of a street, water or sewer improvement, thereby making service available to property, other than property owned by the applicant;

(b) The area to be included in the reimbursement district;

(c) The estimated cost of the street, water or sewer improvements within the area of the proposed reimbursement district and the portion of the cost for which the applicant should be reimbursed;

(d) A methodology for spreading the cost among the parcels within the reimbursement district and where appropriate defining a "unit" for applying the reimbursement fee to property which may, with City approval, be partitioned, altered, modified, or subdivided at some future date. The

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methodology should include consideration of the cost of the improvements, prior contributions by property owners, the value of the unused capacity, rate-making principles employed to finance public improvements, and other factors deemed relevant by the City Engineer. Prior contributions by property owners will only be considered if the contribution was for the same type of improvement and at the same location (example: a sewer-related contribution in the same location as a sewer improvement would be considered, a water-related contribution in the same location as a sewer improvement would not be considered);

(e) The amount to be charged by the City for administration of the district by the City. The administration fee shall be fixed by the City Council and will be included in the resolution approving and forming the reimbursement district. If the applicant is other than the City, the administration fee is due and payable to the City at the time the agreement in Section 13.09.070(2) is signed. If the City is the applicant, the administration fee shall be included in the reimbursement fee and is due and payable at the time there is an obligation to pay the reimbursement fee as required by Section 13.09.110. (Ord. 01-11A §1)

(f) The period of time that the right to reimbursement exists if the period is less than fifteen years. (Ord. 96-13; Ord. 94-10)

13.09.40 Amount to be Reimbursed

(1) The cost to be reimbursed to the applicant, if other than the City, shall be limited to the cost of construction, engineering, and off-site right of way. If the applicant is the City, the costs to be reimbursed shall also include an administration cost and all costs associated with the acquisition of easements and rights of way. Engineering shall include surveying and inspection and shall not exceed 13.5% of eligible construction cost. If the applicant is other than the

City, the costs to be reimbursed for right of way shall be limited to the reasonable market value of land or easements purchased by the applicant from a third party to complete off-site improvements. (Ord. 01-11A §2)

(2) No reimbursement shall be allowed for financing costs, permits or fees required for construction permits, land or easements dedicated by the applicant, costs which are eligible for traffic impact fee credits or systems development charge credits, or any costs which cannot be clearly documented.

(3) No reimbursement shall be allowed for construction costs that occur prior to the formation date of the reimbursement district.

(4) Reimbursement for legal expenses shall be allowed only to the extent that such expenses relate to the preparation and filing of an application for reimbursement, and to working with the City through the Engineer's Report and formation public hearing stages of an application.

(5) A reimbursement fee shall be computed by the City for all properties which have the opportunity to utilize the improvements, including the property of the applicant for formation of a reimbursement district. The applicant for formation of the reimbursement district shall not be reimbursed for the portion of the reimbursement fee computed for the property of the applicant. (Ord. 96-13; Ord. 94-10)

13.09.050 Public Hearing

(1) Within a reasonable time after the City Engineer has completed the report required in Section 13.09.030, the City Council shall hold an informational public hearing in which any person shall be given the opportunity to comment on the proposed reimbursement district. Because formation of the reimbursement district does not

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result in an assessment against property or lien against property, the public hearing is for informational purposes only and is not subject to mandatory termination because of remonstrances. The City Council has the sole discretion after the public hearing to decide whether a resolution approving and forming the reimbursement district shall be adopted.

(2) Repealed by Ord. 96-13. (Ord. 96-13; Ord. 94-10)

13.09.060 Notice of Public Hearing

Not less than 10 nor more than 30 days prior to any public hearing held pursuant to this Chapter, the applicant and all owners of property within the proposed district shall be notified of such hearing and the purpose thereof. Such notification shall be accomplished by either regular mail or personal service. If notification is accomplished by mail, notice shall be mailed not less than 13 days prior to the hearing. Notice shall be deemed effective on the date that the letter of notification is mailed. Failure of the applicant or any affected property owner to be so notified shall not invalidate or otherwise affect any reimbursement district resolution or the City Council's action to approve the same. (Ord. 94-10)

13.09.070 City Council Action

(1) After the public hearing held pursuant to Section 13.09.050, the City Council shall approve, reject or modify the recommendations contained in the City Engineer's report. The City Council's decision shall be embodied in a resolution. If a reimbursement district is established, the resolution shall include the City Engineer's report as approved or modified.

(2) When the applicant is other than the City, the resolution shall instruct the City

Manager to enter into an agreement with the applicant pertaining to the reimbursement district improvements. The agreement shall be contingent upon the improvements being accepted by the City. The agreement, at a minimum, shall contain the following provisions:

(a) The public improvement(s) shall meet all applicable City standards.

(b) The estimated total amount of potential reimbursement to the applicant.

(c) The applicant shall defend, indemnify and hold harmless the City from any and all losses, claims, damage, judgments or other costs or expense arising as a result of or related to the City's establishment of the district.

(d) The applicant shall acknowledge that the City is not obligated to collect the reimbursement fee from affected property owners.

(e) Other provisions as the City Council determines necessary and property to carry out the provisions of this Chapter.

(3) If a reimbursement district is established by the City Council, the date of the formation of the district shall be the date that the City Council adopts the resolution forming the district.

(4) The City Council resolution and reimbursement agreement shall determine the boundaries of the reimbursement district and shall determine the methodology for imposing a fee which considers the cost of reimbursing the applicant for financing the construction of a street, water or sewer improvement within the reimbursement district. (Ord. 96-13; Ord. 94-10)

13.09.080 Notice of Adoption of Resolution

The City shall notify all property owners within the district and the applicant of the

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adoption of a reimbursement district resolution. The notice shall include a copy of the resolution, the date it was adopted and a short explanation of when the property owner is obligated to pay the reimbursement fee and the amount of the fee. (Ord. 94-10)

13.09.090 Recording the Resolution

The City Recorder shall cause notice of the formation and nature of the reimbursement district to be filed in the office of the County Recorder so as to provide notice to potential purchasers of property within the district. Said recording shall not create a lien. Failure to make such a recording shall not affect the legality of the resolution or the obligation to pay the reimbursement fee. (Ord. 94-10)

13.09.100 Contesting the Reimbursement District

No legal action intended to contest the formation of the district or the reimbursement fee, including the amount of the charge designated for each parcel, shall be filed after 60 days following adoption of a resolution establishing a reimbursement district. (Ord. 94-10)

13.09.105 Final Public Hearing

(1) Within three months after completion and acceptance of the improvements, the applicant shall submit to the City Engineer the actual cost of the improvements as evidenced by receipts, invoices or other similar documents. The City Engineer shall review the actual costs and shall prepare a written report for the City Council recommending revisions to the report prepared under 13.09.030.

(2) The final cost shall not exceed by more than 10% the cost estimated at the time of reimbursement district formation unless an exception is approved by the City Council. An

exception may be approved only if the applicant can show legitimate circumstances beyond the control of the applicant which cause the cost increase.

(3) Within a reasonable time after the City Engineer has completed the report required in subsection (1), the City Council shall hold an informational public hearing in which any person shall be given the opportunity to comment on the recommended revisions.

(4) Failure to provide the documentation required by this section shall result in the automatic lapse of any resolution adopted by the City Council pursuant to section 13.09.050. Following the final public hearing provided for herein, and subject to the limitations provided for herein, the City Council shall have the authority to approve, rescind, or modify the reimbursement district. (Ord 96-13)

13.09.110 Obligation to Pay Reimbursement Fee

(1) The applicant for a permit related to property within any reimbursement district shall pay the City, in addition to any other applicable fees and charges, the reimbursement fee established by the Council, if within the time specified in the resolution establishing the district, the person applies for and receives approval from the City for any of the following activities:

(a) A building permit for a new building;

(b) Building permit(s) for any addition(s), modification(s), repair(s) or alteration(s) of a building, which exceed twenty-five percent (25%) of the value of the building within any 12-month period. The value of the building shall be the amount shown on the most current records of the County Department of Assessment and Taxation for the building's real

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market value. This paragraph shall not apply to repairs made necessary due to damage or destruction by fire or other natural disaster;

(c) Any alteration, modification or change in the use of real property, which increases the number of parking spaces required under the Tigard Community Development code in effect at the time of permit application;

(d) Connection to or use of a water improvement, if the reimbursement district is based on the water improvement;

(e) Connection to or use of a sewer improvement, if the reimbursement district is based on the sewer improvement;

(f) Connection to or use of a street improvement, if the reimbursement district is based on the street improvement.

(2) The City's determination of who shall pay the reimbursement fee is final. Neither the City nor any officer or employee of the City shall be liable for payment of any reimbursement fee or portion thereof as a result of this determination.

(3) A permit applicant whose property is subject to payment of a reimbursement fee receives a benefit from the construction of street improvements, regardless of whether access is taken or provided directly onto such street at any time. Nothing in this ordinance is intended to modify or limit the authority of the City to provide or require access management.

(4) No person shall be required to pay the reimbursement fee on an application or upon property for which the reimbursement fee has been previously paid, unless such payment was for a different type of improvement. No permit shall be issued for any of the activities listed in subsection 13.09.110(1) unless the reimbursement fee has been paid in full. Where approval is given

as specified in subsection 13.09.110(1), but no permit is requested or issued, then the requirement to pay the reimbursement fee lapses if the underlying approval lapses.

(5) The date when the right of reimbursement ends shall not extend beyond fifteen years from the district formation date. (Ord. 96-13; Ord. 94-10)

13.09.115 Annual Fee Adjustment

The City Council may grant an annual fee adjustment at the time of application for formation of a reimbursement district as provided in this section.

(1) An annual fee adjustment shall be applied to the reimbursement fee beginning on the first anniversary of the date of the reimbursement agreement as a return on the investment for the person or the City. The annual fee adjustment shall be fixed and computed against the reimbursement fee as simple interest and will not compound. The amount of the fee adjustment shall be determined at the time that a district is formed and shall be the same each year.

(2) Each fiscal year, the Finance Director shall recommend to the City Council an interest rate to be used in determining the annual fee adjustment for reimbursement districts. The City Council shall consider the recommendation of the Finance Director and shall adopt an interest rate to be used in determining the annual fee adjustment. The interest rate adopted by the City Council shall be applied to all reimbursement districts formed during the fiscal year, for which annual fee adjustments are approved. (Ord. 96-13)

13.09.120 Administration

(1) The right of reimbursement is assignable and transferable after written notice is delivered to the City, advising the City to whom future

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payments are to be made.

(2) The City shall establish separate accounts for each reimbursement district. Upon receipt of a reimbursement fee, the City shall cause a record to be made of that property's payment and remit the fee to the person who requested establishment of the reimbursement district or their assignee.

(3) The reimbursement fee is not intended to replace or limit, and is in addition to, any other existing fees or charges collected by the City. (Ord. 94-10) ■